




3 1761 11970736 2









Digitized by the Internet Archive  
in 2023 with funding from  
University of Toronto

<https://archive.org/details/31761119707362>









CANADA

# Debates of the Senate

1st SESSION

• 39th PARLIAMENT

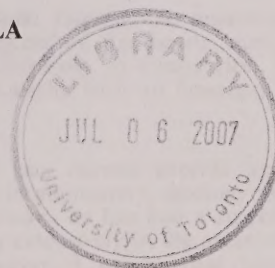
• VOLUME 143

• NUMBER 102

OFFICIAL REPORT  
(HANSARD)

**Thursday, May 31, 2007**

**THE HONOURABLE NOËL A. KINSELLA  
SPEAKER**





## CONTENTS

(Daily index of proceedings appears at back of this issue).

*Debates and Publications:* Chambers Building, Room 943, Tel. 996-0193

Published by the Senate  
Available from PWGSC – Publishing and Depository Services, Ottawa, Ontario K1A 0S5.  
Also available on the Internet: <http://www.parl.gc.ca>



## THE SENATE

Thursday, May 31, 2007

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

[Translation]

### ROYAL ASSENT

The Hon. the Speaker informed the Senate that the following communication had been received:

#### RIDEAU HALL

May 31, 2007

Sir,

I have the honour to inform you that the Right Honourable Michaëlle Jean, Governor General of Canada, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 31st day of May, 2007, at 9:05 a.m.

Yours sincerely,

Sheila-Marie Cook  
Secretary to the Governor General

The Honourable  
The Speaker of the Senate  
Ottawa

Bills Assented to Thursday, May 31, 2007:

An Act to amend the Criminal Code (conditional sentence of imprisonment) (*Bill C-9, Chapter 12, 2007*)

An Act to amend the Criminal Code in order to implement the United Nations Convention against Corruption (*Bill C-48, Chapter 13, 2007*)

An Act to amend the Divorce Act (access for spouse who is terminally ill or in critical condition) (*Bill C-252, Chapter 14, 2007*)

• (1340)

[English]

## SENATORS' STATEMENTS

### PRINCE EDWARD ISLAND

#### CHARLOTTETOWN—BUSINESS HALL OF FAME INDUCTION CEREMONY

Hon. Catherine S. Callbeck: Honourable senators, on Tuesday evening, I had the pleasure of attending the Prince Edward Island

Business Hall of Fame induction ceremonies in Charlottetown. The Business Hall of Fame is sponsored by the Junior Achievement program, which currently provides support and encouragement to more than 4,000 young Prince Edward Islanders on business fundamentals. They are following in the footsteps of previous generations of hardworking people who have been leaders in the province's business community.

The induction ceremonies this year honoured four distinguished Islanders who have made an indelible mark on the economic and community life of my province. The four new inductees are Mary-Jean Irving, who has established very successful businesses in agriculture and packaging; Walter Riehl, who started as a student employee and developed that business into one of the leading construction companies in eastern Canada; Joe McKenna, who started out driving a delivery truck for a dry cleaner and ended up as owner of the growing enterprise; and the late Eric Robinson, who developed one of the most recognized agricultural operations in the province.

Although the inductees represent diverse sectors of the provincial economy, they have one thing in common — a strong entrepreneurial spirit guided by a vision and a goal to excel. They have demonstrated their capacity for hard work, for business acumen and for strong leadership of their respective enterprises. It is people like these four who have helped to build and shape the economy of their province.

There is one further quality which has brought them much-deserved recognition. Each of them, in their own distinct way, has contributed to the betterment of their communities. They have given generously of their time and talents to help support and encourage others and, in so doing, have earned the respect and admiration of their fellow citizens. Their lives and their careers are an inspiration to all Islanders, especially those young Islanders who are entering the business world.

I invite all honourable senators to join with me in extending hearty congratulations and best wishes to this year's inductees into the Prince Edward Island Business Hall of Fame.

### THE HONOURABLE NOËL A. KINSELLA

#### CONGRATULATIONS ON RECEIVING DOCTOR OF LAWS DEGREE

Hon. David Tkachuk: Honourable senators, it seems to be raining honorary degrees on the Senate lately, but on May 7, 2007, St. Thomas University in Fredericton, New Brunswick, presented Senator Kinsella with an honorary Doctor of Laws degree.

Senator Kinsella has earned several university degrees, including doctorates in philosophy, theology and psychology. In addition, as we all know, he has had a successful career as an academic, publishing extensively in the areas of psychology and human rights. However, I believe that his most important



achievement is his considerable involvement in pioneering the advancement of awareness and education in the field of human rights.

I ask that honourable senators join me in congratulating Senator Kinsella for his considerable career accomplishments, his achievements on behalf of others and, in recognition of them, receiving this honour.

**Hon. Senators:** Hear, hear!

### APOLOGY

**Hon. Anne C. Cools:** Honourable senators, I rise to offer an apology to Senator Comeau for yesterday's error. I would like to say, honourable senators, that I disagree with Senator Comeau frequently, but I do hold him in very great respect — and I would also add, some real affection.

I would like to be clear so that we all understand what happened. Yesterday, during debate on item No. 2 of Reports of Committees — and it is there for anybody to read and see — I stated that Senator Comeau had moved the original motion for the consideration of the report. I had obtained that information from the table; but in any event, honourable senators, the information was incorrect. It was not false, just wrong, and I am sure that Senator Comeau accepts that.

Honourable senators, I believe the table officer gave that information in good faith and was very well intentioned. Somehow or other, there was a mistake. Perhaps I did not put the question clearly or whatever, but it does not matter; I am convinced and know for a fact that the information was given in good faith and it was an honest mistake.

Honourable senators, the intention of this statement is to ask Senator Comeau, with some humility, to accept my apology, and yet to prepare for future disagreements.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** I realize, honourable senators, that this is not a time for debate. However, I do accept the very gracious expressions that were just sent to me by my good friend, Senator Cools. I thank her very much.

• (1345)

### PRINCE EDWARD ISLAND

#### CONGRATULATIONS ON ELECTION OF LIBERAL GOVERNMENT

**Hon. Elizabeth Hubley:** Honourable senators, on May 28, the people of Prince Edward Island turned out in their usual record numbers to elect a new government and to choose the men and women who will represent them in the provincial legislative assembly. It was a dramatic and historic day. After the ballots were counted, Robert Ghiz and the Liberal Party had recorded a stunning 23-to-4-seat landslide victory sending the Progressive Conservatives of Pat Binns into opposition. Mr. Ghiz will be sworn in next week as Prince Edward Island's thirty-seventh premier, ending 11 years of Progressive Conservative government on the Island.

Robert's father, of course, was the Late Honourable Joseph A. Ghiz, who served as premier of the province between 1986 and 1993. He played a prominent role on the national political stage as we grappled with constitutional reform.

Honourable senators, Robert Ghiz is an outstanding young political leader. The people of Prince Edward Island have given him a strong mandate to govern and I am sure that he will distinguish himself in the months and years ahead as a premier and first minister.

I know that honourable senators will join with me in offering Mr. Ghiz and the Liberal Party of Prince Edward Island our congratulations and best wishes on a remarkable electoral victory.

### RACIAL PROFILING BY POLICE FORCES

**Hon. Donald H. Oliver:** Honourable senators, I rise today to comment briefly on a new case of racial profiling in Canada. In a landmark decision, the Ontario Human Rights Commission ruled that there is mounting proof that racial profiling is a "systemic" practice used by Canadian police forces. The tribunal's decision received nationwide attention and front page coverage in the *Toronto Star*, Canada's largest newspaper. Honourable senators, on May 18, it received five-column coverage on the front page, and Senator Fraser would understand the significance of that: this is not a small story.

The tribunal ruled in favour of a black woman, Ms. Jacqueline Nassiah, a single mother from Mississauga, that the Peel police racially discriminated against her. It began in February 2003 when Ms. Nassiah went to the Dixie Outlet Mall in Mississauga for a short shopping trip to Sears. According to *Toronto Star* columnist, Christian Cotroneo, Ms. Nassiah

... was wrongly accused of shoplifting a \$10 bra, searched repeatedly, threatened with jail, and subjected to an obscene racial taunt by a police officer.

Ms. Nassiah could muster only one simple, sad reason, to explain how this could have occurred. She said it was, "because I am Black."

Ms. Nassiah repeatedly denied the allegation and even volunteered to be searched by staff in the washroom, but, this was not enough and the officer ordered a second body search after the first failed to find anything. The tribunal's report cites several factors leading to this event, such as,

The arresting officer, Richard Elkington, assumed that because she was black, Nassiah might not speak English. He refused to look at all the evidence, including a security tape.

According to *National Post* columnist, Natalie Alcoba, tribunal member Kaye Joachim said,

What is new —

The article has in brackets "in the last two decades"

— is the mounting evidence that this form of racial discrimination is not the result of isolated acts of individual 'bad apples' but part of a systemic bias in many police forces.



York Regional Police Chief, Armand La Barge, said that police services across the province are making policy changes in a concerted effort to make sure police forces:

... do not in any way, shape or form, engage in profiling activities of the public or of their own staff members. We have changed processes and procedures to ensure officers understand where the community is coming from.

The force has been ordered to develop a specific directive prohibiting racial profiling and train its members.

Honourable senators, in this particular case, the Peel Regional Police has been ordered to pay \$20,000 in damages to Ms. Nassiah.

Currently, Canada has more than 200 ethnocultural communities, while visible minorities total almost 15 per cent of Canada's population and account for one-third of our GDP. Canada is also a country that prides itself on its international reputation based on our commitment to the rule of law — democracy, equality and diversity. In short, diversity is an everyday reality for Canadians. It forms a part of our collective identity, and our future prosperity is contingent on attracting immigrants and visible minorities. Racial profiling hurts Canada's reputation both domestically and internationally.

Honourable senators, no one should be presumed to be either guilty or engaged in conduct or behaviour contrary to the law on the simple basis of the colour of their skin.

The decision of the tribunal is a step in the right direction, but we, as senators, must continue to speak out against these forms of injustice.

• (1350)

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I draw your attention to the presence in the gallery of a distinguished delegation from the Canada-United Kingdom Inter-Parliamentary Association. The leader of the delegation is Mr. Austin Mitchell, MP. He is joined by Ms. Anne Cryer, MP; Mr. Jeff Ennis, MP; Mr. Roger Godsiff, MP; and our friend Lord Rogan of Lower Iveagh, from the House of Lords. They are accompanied by Mr. Paul Jackson, secretary of the delegation. On behalf of all honourable senators, welcome to the Senate of Canada.

**Hon. Senators:** Hear, hear.

## ROUTINE PROCEEDINGS

### CRIMINAL CODE

#### BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Wilbert J. Keon,** Deputy Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, May 31, 2007

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

### EIGHTEENTH REPORT

Your Committee, to which was referred Bill C-277, An Act to amend the Criminal Code (luring a child) has, in obedience to the Order of Reference of Wednesday, May 9, 2007, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

**WILBERT KEON**  
*Deputy Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Keon, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

### PERSONAL WATERCRAFT BILL

#### REPORT OF COMMITTEE

**Hon. Tommy Banks,** Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Thursday, May 31, 2007

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

### SEVENTH REPORT

Your Committee, to which was referred Bill S-209, An Act concerning personal watercraft in navigable waters, has, in obedience to the Order of Reference of Thursday, December 14, 2006, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

**TOMMY BANKS**  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Banks, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.



**FIRST NATIONS LAND MANAGEMENT ACT****BILL TO AMEND—REPORT OF COMMITTEE**

**Hon. Gerry St. Germain**, Chair of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Thursday, May 31, 2007

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

**SEVENTH REPORT**

Your Committee, to which was referred Bill S-6, An Act to amend the First Nations Land Management Act, has, in obedience to the Order of Reference of Tuesday, May 15, 2007, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

**GERRY ST. GERMAIN**  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator St. Germain, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (1355)

**STUDY ON EVACUATION  
OF CANADIAN CITIZENS FROM LEBANON****REPORT OF FOREIGN AFFAIRS  
AND INTERNATIONAL TRADE COMMITTEE TABLED**

**Hon. Consiglio Di Nino:** Honourable senators, I have the honour to table, in both official languages, the twelfth report of the Standing Senate Committee on Foreign Affairs and International Trade entitled: *The Evacuation of Canadians from Lebanon in July 2006: Implications for the Government of Canada.*

**STUDY ON RECENT REPORTS AND ACTION PLAN  
CONCERNING DRINKING WATER  
IN FIRST NATIONS' COMMUNITIES****REPORT OF ABORIGINAL PEOPLES  
COMMITTEE TABLED**

**Hon. Gerry St. Germain:** Honourable senators, I have the honour to table the eighth report of the Standing Senate Committee on Aboriginal Peoples, entitled *Safe Drinking Water for First Nations*, which deals with drinking water in First Nations communities.

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator St. Germain, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

**INTERNAL ECONOMY, BUDGETS  
AND ADMINISTRATION****SEVENTEENTH REPORT OF COMMITTEE PRESENTED**

**Hon. George J. Furey**, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, May 31, 2007

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

**SEVENTEENTH REPORT**

Your Committee recommends that the following funds be released for fiscal year 2007-2008.

**Internal Economy, Budgets and Administration**

Professional and Other Service	\$ 5,000
Transportation and Communications	\$ 0
All Other Expenditures	\$ 0
<b>Total</b>	<b>\$ 5,000</b>

Respectfully submitted,

**GEORGE J. FUREY**  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Furey, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

**NATIONAL SECURITY AND DEFENCE****NOTICE OF MOTION TO AUTHORIZE COMMITTEE  
TO EXTEND DATE OF FINAL REPORT ON STUDY  
OF VETERANS' SERVICES AND BENEFITS,  
COMMEMORATIVE ACTIVITIES AND CHARTER**

**Hon. Joseph A. Day:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(i), I give notice that later this day, I will move:

That, notwithstanding the Order of the Senate adopted on May 11, 2006, the date for the presentation of the final report by the Standing Senate Committee on National Security and Defence on the services and benefits provided to Canadian Forces, veterans of war and peacekeeping missions and members of their families in recognition of their services to Canada, be extended from June 30, 2007, to March 31, 2008.



• (1400)

[Translation]

## QUESTION PERIOD

### HERITAGE

#### SUPPORT FOR THE ARTS— FUNDING FOR SUMMER FESTIVALS

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Could the Leader of the Government explain how she could say to Senator Lapointe on May 8, and I quote:

We have been in government for over one year, and in that time our government has dramatically proven how committed we are to art and culture across the country.

Since the beginning of the week, the newspapers have been full of articles on the concerns of people running major festivals, such as the Montreal International Jazz Festival and the Just for Laughs Festival, about the lack of funding from the federal government.

My question is simple: If you are as dramatically committed to the arts and culture as you pride yourself on being, how will you deal with this problem and help our artists and culture get exposure and make themselves known this summer?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for her question. Heritage Canada, through its Arts Presentation program, will continue to spend more than \$20 million this year to support many of these local events.

In Budget 2007, we committed to set up a new program — and this may be where the confusion comes from — to assist local events celebrating arts, culture and heritage, with funding of \$60 million over a period of two years. This funding is new. It does not in any way affect the existing funding of \$20 million, as I mentioned, and will not, therefore, affect existing programs.

[Translation]

**Senator Tardif:** This week once again, Quebec's tourism minister, Raymond Bachand, told the National Assembly that he had spoken with Minister Oda, and he added the following:

And I call on Maxime Bernier, Michael Fortier, Josée Verner for the Quebec City area, and Lawrence Cannon to intervene, as ministers responsible for Quebec, to defend the festivals.

What does Minister Oda not understand, that makes it necessary for the Quebec government to call on almost all its federal ministers from Quebec to help the industry?

[English]

**Senator LeBreton:** I thank the honourable senator for her question. The minister has perhaps misunderstood what we are talking about here. As I mentioned in my first answer, the

\$20 million that has been in place to support programs this year continues to be in place, and many of these festivals will be supported out of these funds. Nothing has changed there. In Budget 2007, we have brought in a new program, an additional \$60 million. This money is new, therefore, for a new program. However, I do not think I need to remind honourable senators opposite or on this side or, in fact, any parliamentarian, that with this new money, given the problems with the sponsorship program, the government wants to be judicious in how this money is spent. We are working on a program of applications so that this money is put into the hands of deserving festivals and cultural events, and is fully accountable to the Canadian taxpayer.

[Translation]

**Hon. Francis Fox:** Honourable senators, my question is also for the Leader of the Government in the Senate and relates to funding for cultural events and festivals in Quebec this coming summer.

I listened carefully to the Leader of the Government's response. It seems that she is the only one who is not confused. Festival directors in Quebec cannot understand why they do not have any funding.

Along with Senator Dawson, I would like to express how sad and disappointed we were at the statement made by Mr. Bachand, Quebec's tourism minister — I suppose he is mistaken, too — who said yesterday that Quebec ministers should avoid attending festivals in that province. We would nevertheless be delighted to see our colleague, Senator Fortier, make a proud appearance at the summer festival in his hometown of Quebec City.

• (1405)

Will the minister inform her colleague, Minister Oda, of the importance of making the funds available immediately, or is this just a smokescreen? Are they planning to kill off the festivals this summer and to let them go bankrupt, so that in October, they can claim to be saving the day? Does the minister plan to promote federalism in Quebec by letting Senator Fortier attend Quebec City's big festival and other big festivals in the Montreal region with pride and a smile on his face?

[English]

**Senator LeBreton:** Honourable senators, the fact is that there is an Arts Presentation Program through the Department of Canadian Heritage, which is funding these local events this year. In Budget 2007, the government committed an extra \$60 million over two years. If that amount had not been put into the budget it would not even be on the table to consider. It is obvious that with this new money we will want to make absolutely sure that eligible and worthy festivals and cultural groups have access to this money.

The government is being judicious and careful in developing a program for distributing these funds to worthy groups. After what we went through with the sponsorship scandal that would only be prudent. I am sure all honourable senators would agree that we do not need a repeat of what we went through in the last few years.



With regard to organizations that claim they have not been funded, on that particular question I will attempt to ascertain from the Department of Heritage exactly which organizations have applied directly for funding this year, have not been approved and why not.

[Translation]

**Senator Fox:** I have another question for the Leader of the Government in the Senate. I hope this talk of sponsorships is not intended to serve as a red herring. Certain programs that help finance these festivals have been place for quite some time. For instance, when I was Secretary of State, the first grant given to the Festival de jazz de Montréal was given by my department, based on the criteria established at the time by that department.

Could you at least consider the criteria established when these programs were under the responsibility of the Department of the Secretary of State, rather than resorting to a red herring and simply saying that, because there was a problem with sponsorships, all such programs must be cancelled? This undermines the very vitality of the major festivals held in the greater Montreal area, not to mention the scores of other festivals held across Quebec and Canada, for which, due to the department's inaction, the necessary criteria have yet to be established.

Establishing criteria is not exceptionally difficult. Minister Bachand has even offered to provide you with a series of criteria, if you cannot establish your own.

Again, why not give federal representatives in Montreal the opportunity to stroll through these major festivals, with smiles on their lips and full of pride because the Government of Canada is contributing to and participating in the cultural life of Quebec, of Montreal and of Canada?

[English]

**Senator LeBreton:** I would be happy if I had a list of these festivals that the honourable senator claims were not able to access the money that is already there. Again, this is not a smokescreen. We would not be putting an additional \$60 million into a program to create a smokescreen. We are simply recognizing the importance of culture, not only in Quebec, but also across the country. That is why Budget 2007 allocated these additional funds.

I believe all Canadians, in the interests of ensuring that money is put into the proper hands, into worthy organizations, would want the Department of Heritage to develop a set of guidelines for application that would withstand the accountability scrutiny and to ensure that taxpayers' dollars are put into worthy ventures of various cultural and arts organizations.

• (1410)

In addition to the money that we have put into cultural events, we have made a host of announcements in other areas, such as museums.

[ Senator LeBreton ]

As I stated in my earlier response to Senator Fox, I will be happy to try to ascertain from the Department of Canadian Heritage the extent of the problem that the honourable senator seems to indicate exists.

[Translation]

**Hon. Dennis Dawson:** Honourable senators, my question is for the Leader of the Government in the Senate. Quebecers wish to have a Canadian presence in Quebec City. We, the senators and MPs from the Liberal Party, should visit Quebec City together with Ministers Fortier, Bernier and Cannon — all from the greater Quebec City area — and attend the 40th anniversary of the Quebec City Summer Festival. This festival is one of the many organizations that was refused funding this year. This is the first time, in the 35 years that they have received funding, that they have been passed over. This is their 40th anniversary.

This visit would prove that the Canadian government believes in the Quebec City region.

In recent months, you have changed your mind about several programs, including Canada Summer Jobs. You have a few weeks left to change your mind and to help out Quebec City organizations. I am a little guy from Quebec City. You made an exception for some projects supported by Senator Fortier in the Montreal region. I am asking you to make a little effort to support the Quebec City Summer Festival.

[English]

**Senator LeBreton:** Honourable senators, I do not know what Senator Dawson is referring to in regard to making exceptions for Senator Fortier's projects. Suffice to say, this government supports Canadian arts and culture, and it supports our museum structure.

If a particular organization — it does not matter if it is this area or another area — makes an application and for some reason the application is turned down, I will have to ascertain from the Department of Canadian Heritage the reasons for that decision.

Many groups submit applications. There are years when a group's application will be accepted and other years when the application will be rejected. New people come on and people who have received funding in the past leave. There is a host of reasons as to why some applications are accepted while others are rejected.

With regard to the specific festival that Senator Dawson mentioned, I will be happy to seek an explanation from the Department of Canadian Heritage.

## PUBLIC WORKS AND GOVERNMENT SERVICES

### STRATEGY FOR MOVING GOVERNMENT OPERATIONS OUT OF LARGE URBAN AREAS

**Hon. Hugh Segal:** My question is to the Minister of Public Works. I notice that he has recently been engaged in the transfer of 6,000 full-time equivalents from the Ottawa side to the Quebec side within the National Capital Region with respect to employees of the Crown. I congratulate him on the initiative, on the concern

about the fair balance and cooperating with the transportation and municipal officials so as to make that transition as smooth and constructive as possible.

Would the minister indicate whether his department is working on a strategy for the broad decentralization out of big cities of back-office and other expensive federal government operations that are now in high-rent districts to smaller towns and rural areas where the economic presence would be extremely constructive and probably save Her Majesty tens of millions of dollars.

If he is working on such a strategy, could he share when he hopes to make it public? If he is not working on one, could he tell this chamber why not?

**Hon. Michael Fortier (Minister of Public Works and Government Services):** I thank the honourable senator for his question. He has demonstrated that it is possible to ask the Minister of Public Works questions in this house as long as they are obviously on the topic of Public Works.

With respect to the announcement that we made yesterday, it is important to note that we refer to this as expanding our real estate footprint in Gatineau. As a result, obviously, there will be human beings who will be working in those buildings. However, we came to that decision, first and foremost, by keeping tax-dollar savings in mind as the cost of land and the cost of development in Gatineau is cheaper than it is in Ottawa.

With respect to the second part of the question as to whether we are considering moving from the many urban areas in which we operate across the country, the answer is that, as we look at the schedule of leases and when they actually terminate, we do have a plan to cycle out in certain cases. I will give you examples. We have call centres still in certain downtown areas across the country which we clearly need to revisit and push outside of costly urban areas.

• (1415)

Our strategy also involves trying to regroup certain departments within the same ministry and certain departments that work together here on the Hill in different areas of Canada so they can work more efficiently and, at the end of the day, work on behalf of taxpayers to save them money.

Yes, we are working on such a plan. I thank the honourable senator for his question because, although I like to answer questions, I never get any from the other side.

#### GATINEAU, QUEBEC—NEW GOVERNMENT BUILDINGS—ENVIRONMENTAL STANDARDS

**Hon. Mira Spivak:** I have a question for the minister. I noted, as did Senator Segal, that there will be some buildings built in Gatineau. Will they be built to the gold or platinum standard of the greenest lead standard?

**Hon. Michael Fortier (Minister of Public Works and Government Services):** I thank the honourable senator for her question. They will be built to the lead gold standard.

#### STRATEGY FOR MOVING GOVERNMENT OPERATIONS OUT OF LARGE URBAN AREAS

**Hon. Percy Downe:** The minister may be aware that over 70 per cent of the executive positions are located in the greater Ottawa area. While the regions are always grateful for whatever jobs come to their area, we would hope that it would be more than call centres and what sound like low-paying jobs. Has the minister considered an equal distribution of those executive positions across the country?

**Hon. Michael Fortier (Minister of Public Works and Government Services):** I thank the honourable senator for his question. Honourable senators know that with respect to public servants, the direct line reports to the Treasury Board. Public Works and Government Services Canada is not responsible for the employment agreements and contracts of various individuals who work for the Government of Canada.

Several non-urban regions in Canada house public servants. I referred to the call centres because this is obvious; it is low-hanging fruit. We would all agree that to have call centres in downtown Toronto and Vancouver does not make any sense.

Unfortunately, we signed the leases a few years ago, so we need to get out of them and spin these people out of these locations. We are not just looking at call centres; I want to reassure the honourable senator in that respect.

**Senator Downe:** I thank the minister for his answer. I appreciate and agree with the minister. His analysis is correct, the "low-hanging fruit," as he referred to call centres. I would also urge him to study what has been done when whole departments and in some cases, agencies, have been moved. As the minister is aware, when Mr. Mulroney was Prime Minister the National Energy Board was moved to Calgary. Veterans Affairs was moved to Charlottetown.

One of the benefits of these relocations is that the deputy minister right down to the mailroom clerk, the people in the call centre and everyone in between are housed in the same location. In the case of the relocation of Veterans Affairs Canada, it has been of tremendous benefit to the people of Prince Edward Island. I urge the government to do that across the country.

**Senator Fortier:** I take it the honourable senator would support my suggestion to move the Canada Revenue Agency to Vaudreuil-Soulanges.

#### THE ENVIRONMENT

##### KYOTO PROTOCOL— IMPACT OF LIBERAL PARTY OF CANADA PLAN

**Hon. David Tkachuk:** My question is for the Leader of the Government in the Senate. When it comes to explaining the full economic impact of the Liberals' latest environmental plan on our country, the Liberals are silent on Bill C-288. According to an article in the *National Post* on March 1, 2002, the current Chairperson of the Standing Senate Committee on Energy, the Environment and Natural Resources was uncertain whether he should support Kyoto even though he agreed something needed to be done about climate change. He stated that when Kyoto was ratified, Alberta, rightly or wrongly, would immediately pay a larger price than any other province in the country.



Could the Leader of the Government in the Senate explain the impact that the Liberal Kyoto plan would have on the Canadian economy and how the new Conservative government views the need to balance cleaning our environment with providing sound management of the Canadian economy and Canadian workers?

• (1420)

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** This is an excellent question. I notice it finally piqued the interest of Senator Banks when the honourable senator quoted him in his question on the economic analysis and the cost of the Liberal Kyoto environmental plan. I will be happy, Senator Tkachuk, to put on the record that the economic analysis released in April, which was backed up by reputable economists, shows that recklessly following a Liberal plan at this time would have a devastating impact on the economy.

The honourable senator mentioned the province of Alberta, and the analysis shows that the Alberta economy would be particularly impacted, both in terms of GDP and employment. Much higher costs of production associated with the introduction of a major carbon tax on energy inputs would lead to a significant decline in Canada's energy exports. The study shows that Canada's GDP would decline by over 4.2 per cent. This decline represents a deep recession, one that would dramatically lower the living standards of Canadian workers and families.

In contrast with the inaction of the past, we are taking action to reduce greenhouse gases and air pollution through a balanced commitment to environmental protection and economic stewardship. Our approach recognizes the urgent need to act on the environment while also respecting our responsibility to provide Canadians and their families with a good standard of living, and to keep those families working. We have already taken a number of steps forward, and we will continue to do so.

As honourable senators know, we are imposing mandatory emissions and air pollution targets on industry for the first time ever, and the regulatory plan introduced last month will cut air pollution in half by 2010 and reduce greenhouse gas emissions 20 per cent by 2020.

It is interesting that the honourable senator quoted Senator Banks. I had occasion to appear on an open-line radio show in Alberta, and callers were concerned that Senator Banks was overlooking one of the criteria that senators are supposed to adhere to as members of the Senate, and that is to represent their regions.

## THE SENATE

### ENHANCEMENT OF SECURITY— COMMENTS BY THE HONOURABLE TERRY STRATTON

**Hon. Roméo Antonius Dallaire:** I have a question for the Leader of the Government in the Senate. Last week on May 18, the Honourable Senator Stratton said in a phone interview, which my signals intelligence unit picked up, that the upper chamber is "an incestuous place that should be blown up." This statement is a bit strange, because a similar one was made 400 years ago by a chap by the name of Guy Fawkes when he led a plot to blow up

the British Parliament. As a soldier, I become concerned when people talk about blowing up things, particularly our democratic process, because I have spent my life defending against such an eventuality.

To the Leader of the Government in the Senate: Should we look at enhancing the security of the Senate and the nature of possible threats to the Senate, or is Senator Stratton's comment simply a case of loose lips reflecting the true nature of the thought process regarding the Senate in the leader's party?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, when one reads the article one sees that Senator Stratton referred to the Senate as dysfunctional.

In answer to the specific question about whether we provide extra security, with all the ex-military, ex-police and other experts in the Senate and our own capabilities, we are more than capable of physically defending ourselves.

The honourable senator referred to a similar incident happening in Parliament many years ago and the infamous Guy Fawkes. It is interesting that Britain now celebrates Guy Fawkes Night.

• (1425)

**Senator Dallaire:** We are not sure exactly what they are celebrating, because the House of Lords is still there.

### POSITION OF INSTITUTION VIS À VIS PRIME MINISTERS OFFICE AND HOUSE OF COMMONS

**Hon. Roméo Antonius Dallaire:** Honourable senators, I saw an advertisement yesterday that the Conservative Party launched about Mr. Dion's lack of control over the honourable Liberal senators in the Senate.

Does the Prime Minister foresee the role of the Senate as being a chamber that should be controlled by our respective leaders? I speak of "control," instead of the term "command," which is more familiar to me.

Does the Prime Minister see the Conservative senators as nothing more than "an echo chamber of the government's agenda," as Don Martin wrote in the *National Post* yesterday? Does the Leader of the Government obey every desire of her leader, or is her office perhaps more of an extension of the Prime Minister's Office?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, anyone who knows the members of the Conservative Party caucus would know that we are very strong individualists.

However, in answer to the honourable senator's question, these are advertisements run by the Conservative Party of Canada. As I mentioned in response to questions a few days ago, there was an election campaign and we ran on certain measures — democratic reform, tax fairness and strengthening our criminal laws.

The piece of legislation which is the focal point of this advertisement is Bill S-4. The advertisement is quite factual. We are in a parliamentary system. We discuss policies within our own caucus. The Leader of the Opposition in the other place indicated in February that he supported term limits for senators. Tomorrow is June 1 and we are still waiting.

## PUBLIC WORKS AND GOVERNMENT SERVICES

### REVIEW OF GOVERNMENT POLLING— APPOINTMENT OF DANIEL PAILLÉ

**Hon. Sharon Carstairs:** I did not realize the Minister of Public Works and Government Services was feeling so lonely, honourable senators. I will do my best in the future to ensure that he does not feel lonely ever again.

The Minister of Public Works and Government Services awarded a contract recently to Daniel Paillé and a mandate to review government polling between 1990 and 2004. It is somewhat ironic that he did not want him to review any polling done by this particular government, only previous governments.

Mr. Paillé, by his own admission, has absolutely no knowledge of polling. Would the minister like to tell the chamber why he would appoint someone with no background and no experience in polling to review polling?

**Hon. Michael Fortier (Minister of Public Works and Government Services):** I thank the honourable senator for her question. We appointed someone to review contracts that were handed out to polling firms for the period of 1990 to 2003. The gentleman that we appointed to do this work is reviewing contracts that have to do with polling.

Mr. Paillé will retain experts, if he believes that is necessary; but we have asked him to review how these contracts were awarded and to report back to me within six months.

### POSTING OF IPSOS-REID POLL ENTITLED “EXPLORING THE VIEWS OF CANADA’S MULTICULTURAL COMMUNITIES”

**Hon. Sharon Carstairs:** Recently, the minister’s government conducted a poll of ethnic Canadians. They asked questions essentially about how the government was doing on its five priorities. The cost of this polling was \$117,000. Yet, despite Treasury Board guidelines, this poll was not released. It only became public after the media made an access to information request.

My question to the minister is: Why was this information not released until the government was forced to do so?

**Hon. Michael Fortier (Minister of Public Works and Government Services):** Honourable senators, I do not know the specifics of this particular poll. It was not conducted by my department. However, the honourable senator is right; the new guidelines exist and the polls should be released.

If the honourable senator has other examples of polls that have not been released, I would welcome her suggestions, and I will immediately tell the departments to release that information.

• (1430)

[Translation]

## ANSWERS TO ORDER PAPER QUESTION TABLED

### HEALTH—PEST MANAGEMENT REGULATORY AGENCY

**Hon. Gerald J. Comeau (Deputy Leader of the Government)** tabled the answer to Question No. 30 on the Order Paper—by Senator Downe.

[English]

## BUSINESS OF THE SENATE

**Hon. Gerry St. Germain:** Honourable senators, with leave of the Senate, I move that Bill S-6, placed earlier on the Orders of the Day for third reading at the next sitting of the Senate, be placed on the Orders of the Day for third reading later this day.

After consulting with the leadership and the opposition critic, I seek the consent of the Senate. Tremendous work has been done by all colleagues who worked together closely on Bill S-6. It has been requested that the bill be expedited in the spirit of providing economic opportunities for Aboriginal peoples in the province of Quebec.

**The Hon. the Speaker:** Honourable senators, is leave granted for third reading of Bill S-6 later this day?

**Senator Cools:** I am not following. Which bill is it?

**The Hon. the Speaker:** Bill S-6, which was reported without amendment earlier this day.

**Senator Cools:** We are not there yet.

**The Hon. the Speaker:** The honourable senator is asking for leave.

**Senator Cools:** It is not on the Order Paper.

**The Hon. the Speaker:** Bill S-6 was reported earlier without amendment and the motion was to put the bill on the Orders of the Day for third reading at the next sitting of the Senate. However, Senator St. Germaine is asking leave to place the bill on the Orders of the Day for third reading later this day.

Honourable senators, is leave granted?

**Hon. Senators:** Agreed.



## ORDERS OF THE DAY

### CANADA TRANSPORTATION ACT RAILWAY SAFETY ACT

#### BILL TO AMEND—THIRD READING

**Hon. Hugh Segal** moved third reading of Bill C-11, to amend the Canada Transportation Act and the Railway Safety Act and to make consequential amendments to other Acts, as amended.

**The Hon. the Speaker:** Is the house ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill, as amended, read third time and passed.

### FIRST NATIONS LAND MANAGEMENT ACT

#### BILL TO AMEND—THIRD READING

**Hon. Gerry St. Germain** moved third reading of Bill S-6, to amend the First Nations Land Management Act.

He said: Honourable senators, I am very happy to rise today to express my support for Bill S-6, to amend the First Nations Land Management Act. This is a small bill, but it has significant ramifications. Honourable senators heard from Senator Peterson, not to mention my own speech at second reading just a few weeks ago, about why this bill to amend an existing statute is so necessary. Those of us who are members of the Standing Senate Committee on Aboriginal Peoples also had the opportunity to question officials from Indian and Northern Affairs Canada. Most importantly, we heard from the people who will be impacted directly by this change and from First Nations leaders who have been involved in the implementation of the framework agreement that underlies the parent act, the First Nations Land Management Act. They all spoke to the numerous benefits of this proposed legislation. In a single stroke, this bill will amend the First Nations Land Management Act to allow First Nations in Quebec to opt into the act if they so desire.

There is another legislative proposal that the government introduced which demonstrates its commitment to working with First Nations. Bill S-6 will enable First Nations to develop the tools and mechanisms that they need to determine their own economic development plans with the intent to create a more prosperous future.

Last fall, I sponsored Bill C-34, the First Nations Jurisdiction Over Education in British Columbia Act, which the Senate considered and which received Royal Assent last December 12. The act allows First Nations children in my beautiful province of British Columbia to access an education that not only meets provincial standards, but also provides the all-important cultural component that is essential in the educational development of each child.

All honourable senators are aware of the great potential that exists among members of First Nations communities to want to participate fully and maximize their economic opportunities in the Canadian economy. In terms of labour force and entrepreneurial development, the First Nations represent a significant human resource. Bill S-6 is an important progressive means of expanding the benefits of direct land management to First Nations in Quebec, if they choose to go this route.

The genesis of the proposed legislation before us is, of course, the First Nations Land Management Act, which received Royal Assent in 1999. By the way, I worked closely on this particular piece of legislation with many members in this place. It was a tremendous thing then and I still believe it was a great move on the part of the government of the day to bring forward the legislation. The act permitted First Nations that opted into it to adopt a formula that gave them greater control over their land and resources. At the heart of the First Nations Land Management Act is the Framework Agreement on First Nations Land Management, signed in 1996 between the Government of Canada and the 14 First Nations who initiated this arrangement.

The Framework Agreement allowed participating First Nations to opt out of the restrictive property provisions of the Indian Act. Simply put, however, since there was no First Nation from Quebec among the original signatories to the Framework Agreement, that document was drafted on Common Law rather than on Civil Law concepts. Only afterward did it become apparent that this made accessing the benefits possible under the Framework Agreement difficult for the First Nations in Quebec. This is the situation that the bill before us will correct. If First Nations in Quebec elect to opt into the legislation, they will have access to all of the essential legal powers required to manage their lands and resources.

Honourable senators, the First Nations Land Management Act is a proven success. Of the 47 First Nations currently opting into the act, 17 have had their land tenure systems approved through negotiations with the department and through successful ratification votes by their own communities. Already, they are setting up job creation projects on their own land without seeking approval at every step from Ottawa and the department. One of the first, Westbank First Nation in British Columbia, has moved through this land management regime and has gone on to conclude their self-government agreement.

• (1440)

We should all care about this because these economic projects will create attractive job prospects for First Nations youth, which will in turn encourage these youth to stay and grow along with their communities.

I think that this is the crux of Bill S-6. It puts the opportunity and the means of economic success squarely in the lands of the First Nations in Quebec. It enables them to plan their own economic future according to their community's individual circumstances. In developing these economic opportunities, they can build the foundations of vibrant, successful communities.

When Chief Austin Bear of the Lands Advisory Board appeared before our standing committee, he talked about the cooperation that the 17 operational First Nations gave to this

project. All 17 were convinced that they wanted to open the framework agreement up to the First Nations communities in Quebec. All 17 passed band council resolutions to express their support for the initiative and they have also signed the framework and agreement amendment.

Chief Bear was able to give us concrete examples of how First Nations are benefiting from the ability to manage their own lands. We can only imagine what that means for the leadership and the people of these communities.

There are another 30 First Nations communities working with the Lands Advisory Board and the department towards developing all the land codes necessary to put an informed package before their people for consideration and ratification.

The standing committee also had the opportunity to talk to Chief Ross from the Innu First Nation of Essipit on the banks of the St. Lawrence River. Chief Ross and his council are convinced that there are benefits for their community in opting into the provisions of the framework agreement.

This community has already made great strides in economic development through thriving tourism ventures on their land. They have advised us that other Quebec First Nations are watching this development with interest.

Honourable senators, Bill S-6 is an important enabling piece of legislation and I want to take this opportunity to thank the members that sit on the committee. I think of Senator Campbell, Senator Sibbeston, Senator Gustafson, Senator Lovelace Nicholas and others that sit on this committee. We have been able to work together in a non-partisan manner to further the cause of our Aboriginal people and I think this is critical. We have Senator Hubley and the critic on this, Senator Peterson, who showed leadership in working with us and putting this forward and making it work.

I urge all senators to give Bill S-6 your full support and I thank you for the cooperation of this place in making certain that we expedite these initiatives in the way we should.

**Hon. Tommy Banks:** Would the honourable senator accept a question?

**Senator St. Germain:** Certainly.

**Senator Banks:** I agree with the honourable senator's comments about the very good value in the bill which this seeks to amend.

I have a question that refers to section 19 of the present bill. I would not ask this question had this bill not originated in this place. We will now, I presume when we pass this as I hope we will, send it to other place for consideration and ratification.

Section 19 is a short paragraph that has to do with the coming into force of this bill. It is one which, if it were to stay in its present form, gives to this government, the next government or the government after that, the freedom to determine when, and sometimes that has become if, this amending bill would come into effect.

Ordinarily there are clear reasons in a bill when this kind of clause is included as to why it is included, usually having to do with consequential amendments to other bills or the bringing into force of another act, which is required to give effect to this one. A perusal of this bill shows there are no such consequential amendments and it simply amends an act which, as the honourable senator said, in itself is good and this makes it better.

Is there a reason for devolving to the government the option of deciding when this comes into place or does the honourable senator think it would be more efficacious and bring more certainty to the application of this amendment if this particular clause made a date certain, for example six months after receiving Royal Assent?

**Senator St. Germain:** I commend the senator for his astute observations of this particular clause.

I cannot give the honourable senator the reason why this clause is included because I do not have it. I can assure honourable senators that the First National Land Management Act has been so well accepted in the Aboriginal community, I do not care who is in power, I cannot foresee them stalling this particular initiative or Royal Assent of this particular bill.

The track record is there. Look at Robert Louie, the Chief of the Westbank band is the chair of the Land Advisory Board of this particular First Nations Land Management Act. I can only assure the honourable senator of one thing, if the present government, of which I am part, was delaying this bill, you can rest assured there would be an outcry from this seat.

I do not have an answer to your question, but I can assure the honourable senator that there would be a tremendous amount of pressure on any government to pass this bill because of the huge success in the ability of First Nations to get out from under the Indian Act to manage their own lands.

I cannot see any reason for delay, but I can assure the honourable senator that I will be watching for it to make it certain the moment it passes the other place, Royal Assent is received and the Quebec First Nations are given the same opportunities that the rest of the country enjoys.

**Senator Banks:** To be sure of my question, I have no doubt that the government would not stand in the way of Royal Assent of this or any other bill, but after Royal Assent has been obtained, this bill, if it were to become an act, says that notwithstanding Royal Assent having been attained and obtained and given, the government has the option of deciding when the bill will come into force. It is the latter thing on which I presume the honourable senator is undertaking to bird-dog this very carefully. I will rely on the honourable senator.

**Senator St. Germain:** The honourable senator has my assurance.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read third time and passed.



## CRIMINAL CODE

BILL TO AMEND—SECOND READING—  
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cochrane, seconded by the Honourable Senator Segal, for the second reading of Bill C-22, to amend the Criminal Code (age of protection) and to make consequential amendments to the Criminal Records Act.

**Hon. Catherine S. Callbeck:** Honourable senators, I rise to speak today on Bill C-22, an act to amend the Criminal Code, the age of protection and to make consequential amendments to the Criminal Records Act.

This legislation amends the Criminal Code in order to raise the age of consent referred to as the age of protection. Current age of consent, which has been in place since the late 19th century, is 14 years old. This legislation, once passed, will raise that age of consent to 16 years old.

This amendment of the Criminal Code is a serious step. Once completed it will be tremendously difficult to change back. No doubt the Senate committee will want to look at the studies and consultations done by the Government of Canada in preparing the legislation as well as to hear from a wide variety of witnesses. As parliamentarians, we must be sure we do the right thing for Canadian youth. We need to ensure that the legislation criminalizes predators and not young people.

• (1450)

The age of consent varies greatly in different countries around the world. In the United States, the age of consent is either 16 or 18 years. Many states in Australia, as well as countries such as New Zealand, Russia and the United Kingdom, have placed their age of consent at 16. In countries such as France and Germany, the age of consent is consistent with ours, at age 14. I am sure that in the course of this study, the Senate committee will contrast and compare the legislation that exists elsewhere.

This legislation contains only four clauses. It amends various provisions in the Criminal Code that state that the current age of consent for sexual activity is "14 years" by changing the words to "16 years." This bill adds a "close-in-age" exception. This exception applies only to 14- and 15-year-olds who engage in sexual activity with a partner who is less than five years older, and where there is not a relationship of trust, authority, dependency, or any other situation which is exploitative of the young person.

The current legislation also has a "close-in-age" exception, in that 12- and 13-year-olds may consent to sexual activity. This exception applies only if their partner is less than two years of age older and less than 16, and provided that the relationship is not exploitative. This exception will remain in place.

An additional time-limited exception will also be available for 14- and 15-year-olds who, when this piece of legislation comes into effect, are already married or living in a common-law relationship for more than one year, with a sexual partner who is more than five years older. This exception will also apply in cases

where a 14- or 15-year-old person is expecting a child or has a child with a partner more than five years older, even if their living together does not meet the minimum time frame to be considered common law. Statistics Canada data from the 2001 census shows that there are 15-year-olds involved in a legally married or common law relationship.

Views on this legislation are varied and complex. On the one hand, this bill is supported by a number of groups, including parent groups, child advocacy groups, police and law enforcement. They believe there are serious consequences to Canada's current age of consent.

The House of Commons Standing Committee on Justice heard testimony that this country has become a sort of sex tourism destination for predators who are looking for 14- and 15-year-olds to exploit. Detective Sergeant Kim Scanlan of the Sex Crimes Unit at the Toronto Police Service noted that:

Canada's low age of consent is openly discussed in peer-to-peer chatrooms by sexual predators.

Tony Cannavino, President of the Canadian Police Association, also testified before the committee and said:

Those who would prey on our children through the Internet or other means understand that it is not an offence in Canada for an older person who is not in a position of trust or authority to have consensual sexual relations with a child of 15 years.

Police believe that raising the age of protection, while putting the close-in-age exception in place, gives law enforcement the tools they need to curtail those types of activities without affecting teenage sexual behaviours.

While there is support for the legislation, a number of concerns have been expressed that require the careful study of the Standing Senate Committee on Legal and Constitutional Affairs.

There are significant concerns that the rigidity of the close-in-age exception will criminalize the sexual behaviour of youth and, as such, young people will find themselves in violation of the law. For example, it would not be out of the ordinary for a 14-year-old and a 19-year-old to attend school together and to meet at other social functions. Even if their birthday was on the same day, any sexual relationship would be termed illegal, given that the legislation clearly states the exception is "less than five years."

This provision becomes all the more problematic in that young people could find themselves labelled as sex offenders. Jason Gratl, President of the British Columbia Civil Liberties Association, testified before the Justice Committee to that effect. He said:

We are talking about drastic consequences to individuals who are convicted of sexual offences — not only potential penal consequences, but inclusion of sexual offender databases and registers. These are consequences that ultimately change a person's life from there on in, making that person subject to extra monitoring, extra prescription and so forth.

A number of witnesses also testified to the committee that the close-in-age exception may give rise to a constitutional challenge. According to Professor Daphne Gilbert from the Faculty of Law, Common Law Section at the University of the Ottawa, the minimum age for marriage with parental consent in the territories is currently 15 years of age, while in the provinces, the age is 16. In addition, a number of provinces have provisions, such as by judicial order or ministerial permission, which allow a marriage under the age of 16 when it is in the best interest or expedient to do so, as in the case of pregnancy. It is then possible that a marriage between a 15-year-old and a partner more than five years older would be allowed under provincial jurisdiction, but that sexual relations in the marriage would be against federal law.

Professor Gilbert stated:

Given, then, that both schemes are constitutionally permissible — the provincial age limits under solemnization of marriage competence and federal criminal law age limits for lawful sexual activity — the legal question becomes how to resolve the constitutional conflict.

In this situation, federal and provincial law would be in direct conflict with one another. The marriage itself would be legal, while sexual relations between the couple would not. In cases where federal and provincial laws are in conflict, judicial doctrine regularly states that federal law is paramount. As a result, for couples where one of the parties is more than five years older, the territories would need to raise their minimum age for marriage to 16 and provinces that have exceptional provisions would need to eliminate them altogether.

A number of organizations expressed their concerns that teenagers would be reluctant to seek sexual health information and services for fear that they are breaking the law by being sexually active, especially if that relationship is outside the five-year age limit.

Andrea Cohen, President of the Board of Directors of the Canadian Federation for Sexual Health said:

The perception or reality that a young person or his or her partner would be reported to authorities and prosecuted for consensual sexual activity outside the five-year limit will result in sexually active youth not seeking or getting the health services they need. There are potential consequences to this. The prevention of unintended pregnancies, the prevention and treatment of sexually transmitted infections, and the prevention of HIV/AIDS will be seriously compromised.

We do not want Canadian teenagers to be afraid to obtain sexual health information or to seek medical attention. It was suggested during the Justice Committee's hearings that an aggressive public awareness campaign on this legislation might alleviate the problem. The Senate committee will want to look into this area and hear the concerns and possible solutions from both adults and young people themselves.

Honourable senators, there has been both a wide range of support and concerns for this particular piece of legislation. There are those who say that the current laws are sufficient to protect

youth from exploitation and abuse. I know that many Canadians are concerned about the use of new technologies such as the Internet by adult predators to sexually exploit youth, and indeed we should be concerned. A poll conducted earlier this year found that 25 per cent of children aged 10 to 14 said they would feel safe meeting a person they have met only online.

We all agree that we want to protect Canadian youth from those who would attempt to exploit them, but significant concerns about the legal and social consequences of this bill remain. The Standing Senate Committee on Legal and Constitutional Affairs will want to give careful consideration to all these issues, as well as others, when Bill C-22 is referred for study.

• (1500)

**Hon. Sharon Carstairs:** Honourable senators, I rise to say a few words on Bill C-22, but I speak today because I have no intention of preventing this bill from going to committee as soon as possible. However, I wish to express my concerns — concerns that I hope will be dealt with by the committee.

On the surface, Bill C-22 would appear to be a good bill, raising the age of consent for a sexual act to 16 years from 14. Let us be very clear what this bill does not do.

This bill does not deal with the issue of a relationship between a child — because I think a 14-year-old is a child — and someone in a position of trust: a parent, a guide leader, a teacher. That is already dealt with in the Criminal Code. That is already a criminal act.

This bill deals with the consensual sexual act of a 14-year-old, whether male or female. It really asks the question: Do 14- and 15-year-olds have the maturity to decide to participate in sex? In other words, we are stating, if we pass this bill, that we do not believe that 14- or 15-year-old girls or boys have the appropriate decision-making capacity to make a decision of this magnitude.

I find it somewhat strange that this bill comes from a government whose former Minister of Justice, the Honourable Vic Toews, has indicated that children as young as 10 have the mental capacity to determine whether or not to commit a criminal act and should be treated like adults when they do so.

Honourable senators, I believe 10-year-olds are children and I also believe 14-year-olds are children. We should not have a double standard, whether it is with respect to a sexual or criminal act. I would suggest to honourable senators that our Youth Criminal Justice Act deals harshly with 14-year-olds, and I ask you to consider that.

I also think we have to be consistent in the age at which we protect children from themselves and the influence of their peers. I want the committee to look seriously at the sexual activity of 14- and 15-year-olds. I spent 20 years of my life teaching junior and senior high school students. While I regretted what I saw going on around me, it was all too obvious that many 14- and 15-year-old boys and girls had active sex lives. Therefore, my concern became focused on how to educate young persons, first by trying to make them understand the seriousness of decisions they had made or were due to make and, second, by providing them with the information, if they made that decision to have an



active sex life, to prevent an unwanted pregnancy. That is why, for example, I taught the first family life education programs in the province of Alberta.

My concern now is: Would this bill lead to a decrease in appropriate education programs for teenagers? Will this legislation prevent teens from seeking information about the activity they are participating in or thinking about participating in? Will this bill prevent them from seeking and learning information about sexually transmitted diseases, diseases that are on the increase in Canada, and particularly among young teens?

Unfortunately, we know all too well about child prostitution. Honourable senators, one can see 14- and 15-year-olds on the street soliciting in many of our large cities if one looks closely enough. At the present time, they are visible. They are visible to child sex workers and to social workers. If we pass this proposed legislation and the act of participating in sex becomes illegal, will those who manage these young boys and girls — and they are indeed managed — then take them inside, where they will not be observed by social workers and by child sex workers, and where they will not get the help that they need? I do not know the answer to that. I am asking the question.

Honourable senators, what of our Aboriginal children? Aboriginal children are the most highly incarcerated children in this country. Will this bill make their situation worse? Will it make it better? Will it have no effect? Again, I have no answers for honourable senators, and that is why I ask that we review this matter seriously in committee. I regret to say that many of these issues were not addressed thoroughly by the House of Commons committee that dealt with this bill.

The decision that we make to raise the age of consent from 14 to 16 must not be done as a glib, quick solution to what we think is the unacceptable behaviour of a 14-year-old. We must make this decision on whether this proposed legislation will prevent children from harm or whether we will, in fact, create a greater harm.

On motion of Senator Tardif, for Senator Joyal, debate adjourned.

[Translation]

### CONSTITUTION ACT, 1867

#### BILL TO AMEND—REPORT OF SPECIAL COMMITTEE ON SUBJECT MATTER—DEBATED CONTINUED

On the Order:

Resuming debate on the consideration of the first report of the Special Senate Committee on Senate Reform (subject-matter of Bill S-4, to amend the Constitution Act, 1867 (Senate tenure)), tabled in the Senate on October 26, 2006.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I said a few words yesterday about this motion, but I did not use up my full 15 minutes. Could you confirm that I still have some time left?

[English]

#### POINT OF ORDER

**Hon. Anne C. Cools:** I would like to begin my point of order by thanking Senator Comeau for his gracious acceptance of my apology earlier and to say to him that the apology was well meant and very sincere.

I would like to raise questions that may be easily resolved here. They may be. First, let me say that this particular issue before us now is under the rubric Reports of Committees Order No. 1, which is:

Resuming debate on the motion of the Senator Comeau, seconded by Senator Di Nino, for the adoption of the first report of the Special Senate Committee on Senate Reform (subject-matter of Bill S-4, An Act to amend the Constitution Act, 1967 (Senate tenure)), tabled in the Senate on October 26, 2006.

The important issue, honourable senators, is that yesterday, I think it was, Senator Ringuette made a successful motion to adjourn that debate. According to this Order No. 1, that result has totally either disappeared or evaporated; I am not sure which.

That would be the first question I would like to have resolved. There was a vote yesterday, not just a voice vote, but also a division — the bells rang, senators were called in, and there was a vote in favour of Senator Ringuette's motion.

My understanding is that this appearance on the Order Paper today arises out of a point of order that followed the division. That is the right word, honourable senators — “division” — that followed the division yesterday.

• (1510)

The next question that I wish to raise here is how can a Speaker's ruling overcome a division and what in fact is an order of the Senate? I will come to the Speaker's ruling in a moment. I am trying to lay these points out so that senators can follow and understand. Despite the slight hiccup yesterday with the wrong information from the table, the fact of the matter is that when I rose I thought Senator Comeau, though well-intentioned, was wrong, particularly in trying to move a motion and have it adopted simultaneously. That remains a concern. Whereas I was wrong on the fact of whether or not he had moved the motion originally, I was still correct on that fact.

I draw honourable senators' attention to our rules and to rule 57(1)(e), where it states clearly, without any doubt:

Two days' notice shall be given of any of the following motions:

(e) for the adoption of the report of a special or special joint committee;

Honourable senators, the report before us is a report of a special committee. Two days' notice is required. The best and the most generous interpretation that can possibly be given to what Senator Comeau moved yesterday is that it was a notice, despite the fact that at the time I knew that he wanted to speak to the

motion and have it adopted simultaneously. In order that senators can be crystal clear, the rule is under “notices”. The margin notes say: “Two days’ notice of certain motions.” Rule 57(1) says: “Two days’ notice shall be given of any of the following motions.” Rule 57(1)(e) says: “for the adoption of a report of a special or special joint committee.”

Clearly, honourable senators, the proper way that he should have moved ahead yesterday was that Senator Comeau should have risen and given notice of his motion. However, for the sake of argument yesterday, because I was dealing with another subject, I did not raise that because one can always treat that as notice. However, two days’ notice means that he cannot speak today or that the debate on this motion cannot take place today. Therefore I would like that question addressed. There is no doubt whatsoever about the clarity of rule 57(1)(e).

The issue then becomes now, honourable senators, Senator Comeau’s actual moving of his motion. If honourable senators would look at the *Debates of the Senate* of yesterday, page 2462 of Senate Debates, May 30, 2007, states:

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I move that this report be adopted.

**The Hon. the Speaker:** It is moved by the Honourable Senator Comeau, seconded by the Honourable Senator Di Nino, that the report be adopted.

Honourable senators, that is not what the blues of yesterday’s Debates say and that is not what happened here yesterday. I shall now read from the blues of yesterday, as they are different. I know, honourable senators, because I was trying to get to my feet as fast as possible and I darted over to the table to get back here, so I am pretty aware. What happened yesterday is the following, according to the blues.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I move that this report be adopted.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Honourable senators will notice that the motion was never seconded nor adopted.

I believe that the information about the seconder of Senator Comeau’s motion was brought when I rose here yesterday to say what the table had told me. At that point, Senator Pierrette Ringuette rose and said:

Honourable senators, I did not understand that we were at this item on the Orders of the Day. I would like to speak on this bill. I move the adjournment.

Senator Ringuette was very fast to get in there. There is a difference of expression of events in the two reports, the one in the blues and one in the Debates. I do not know how His Honour can resolve that. It is not unusual for zealous staff to rewrite the blues to reflect what they think should have happened. Perhaps that is what has occurred. I tried to get a copy of the audio but I was not

able to listen to it in time. At any rate, my recollection — and maybe Senator Ringuette can help with this — of yesterday’s events was that Senator Comeau’s motion was not properly moved. It was so fast that it was not properly moved and properly put before us with notice. Senator Ringuette moved with lightning speed yesterday, which is what members of Parliament are supposed to do.

I hope I have been clear. However, the blues show clearly that Senator Comeau’s motion was not seconded; neither was any notice given for it. That problem could have been overcome had Senator Comeau asked for leave to move the motion, but leave was not requested so it did not present itself as a problem yesterday.

Honourable senators, I would like to have some resolution on this issue because Speakers’ rulings play an important role, but the role that they do not play is to determine which motion should move ahead quickly or to overcome another. Clearly, two motions were moved, though one was improper. One was voted on. One can even say that that one motion superseded the first one, the one of Senator Comeau. This will take some resolution in this place from honourable senators.

Honourable senators, if we could just move on to page 2464 of yesterday’s Debates, still May 30, 2007. I am now looking at the record on the point of order, which Senator Comeau justly and properly raised in respect of questioning why he was being denied the opportunity to move his motion.

I will now go to the Speaker’s ruling at the end of the point of order. I tried last night to clarify that there was no notice and to apologize immediately but I did not have the opportunity. However, if we look at the ruling that the Speaker gave last night, and we look at the *Debates* as reported at page 2464, and the edition of the blues, we see a difference again.

• (1520)

If we look on page 2464 at the paragraph:

**The Hon. the Speaker:** Honourable senators, I do not need to hear any more.

The matter before us was consideration of the report. The chair recognized Senator Comeau. Senator Comeau rose to speak on consideration of the report and he moved a motion which was seconded.

The blues say something different now. They come to a different conclusion. The blues say at page 1540-9 “That motion has now amended the question.”

In other words, the blues say that Senator Comeau’s motion is no longer a free-standing motion that can supersede a previous motion because there is a conflict between the two; the Debates and the blues. One was voted on and the other one was not. It clearly shows that there is a problem.

According to the blues, that motion has now amended the question. The Speaker’s ruling as reported in the blues is saying that we now have a question that has been amended, which is different from what was reported in yesterday’s Debates at page 2464. It says: We are considering a report and a motion asking that that report be adopted.



Somewhere along the line, maybe a zealous table officer excluded that sentence that was in the blues at page 1540-9, "That motion has now amended the question." I would like honourable senators to look at this.

If honourable senators also look at Senator Comeau's remarks at page 2464, when he was basically appealing to the house for relief from a mistake — and I think that is fair and just — he said:

Therefore, my motion to have this bill dealt with today was denied, and I took the position that I had better be absolutely sure.

He then went outside and checked very correctly, I thought.

There is something here that is either an error or someone has corrected or edited the record in some way to favour one motion over the other.

However, that is still academic. The fact remains that perhaps there is a different resolution. I sincerely believe that quite often these things happen, and people do mean well. However, the fundamental question that must be asked is that according to the outcome of a vote yesterday, Senator Ringuette should be the first on the floor today holding the adjournment from yesterday. Today, to my mind, we would have sorted out the proper fate of Senator Comeau's motion bearing due respect to everything else that had happened.

Honourable senators, this sounds remarkably complicated, but it is not. All that must be considered is the proper role of a Speaker's ruling, and there is no Speaker's ruling that can defeat or overcome a division that agreed with the fact that Senator Ringuette should be the first one to speak today on the report, not on Senator Comeau's motion.

The question of the fate of Senator Comeau's motion is somewhat unclear. If I were in his position, I would have reintroduced it today and put it on notice because it requires two days' notice anyway, and it would be on for Tuesday in any event. There is no doubt that Senator Comeau cannot speak to that motion today because it requires two-days' notice. The Speaker, by a Speaker's ruling, cannot decide that he should make it a one-day notice.

I hope I have made myself clear. I have just been speaking from the record in front of me. I hope I have made sense of it. Something is quite out of order in this instance.

**Hon. Joan Fraser:** Your Honour, as is often the case, Senator Cools has raised some acute and important points. It is true that notice was not given for the motion that Senator Comeau made yesterday, and it should have been given. Two days' notice is indeed required for the adoption of a report by a special committee. That was not done.

As honourable senators know, the proceedings at that particular point were confusing to a large number of us in the Senate, and it will be Your Honour's duty to seek appropriate remedies. I have a couple of suggestions.

My second point, in particular where I would support Senator Cools, is in her observation that adjournment was not granted for the balance of Senator Comeau's time; it was granted in the name

of Senator Ringuette. Therefore, technically, Senator Comeau has lost his slot.

However, I am sure that it would be within Your Honour's capacity to draft appropriate language for the Senate to give leave first for the proceedings yesterday to be deemed to have consisted of the requisite two-day notice, which would bring us to a debate on Tuesday. Once that had been done, seek further leave, should Senator Comeau wish it and should Senator Ringuette wish to grant it, in particular for Senator Comeau to be able to speak for what would have been the balance of his time had we adjourned for the balance of his time.

As for the matter of discrepancies between the blues and the printed record, I would urge Your Honour to consult the audio. I am not in a position to make any judgments on it. We know that sometimes things appear that are not exactly as we said them, and I do not blame anyone for that. I know that I myself do not always speak as clearly as I would like and that when many things are going on, not everyone catches it. However, it is important for the printed record of this place to be accurate. I would leave that in Your Honour's hands.

**The Hon. the Speaker:** Is there advice from the government side?

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** We leave it in the capable hands of the Speaker.

**Senator Cools:** I would like to say, honourable senators, I would be happy to give agreement and leave to Senator Comeau to speak today for the whole time. I think Senator Comeau should know that if he had asked for leave yesterday, it would be a different question.

Honourable senators, we can find it in our hearts to be magnanimous and generous at times. I think we can resolve the issue, since Senator Ringuette is willing, on Senator Comeau's motion. If I were he, I would rise now, put the motion again and ask leave to begin that debate on his motion now.

With respect to the other question of the discrepancies or differences between the blues and the Debates, I think His Honour should look into that and listen to the audio. As I have said before, I did not have an opportunity to listen to the audio, so I cannot say with certainty which record is correct or which one is more correct. I will leave that in His Honour's hands.

**The Hon. the Speaker:** Honourable senators, on the last point mentioned by Senator Cools, I will indeed undertake soothe appropriate steps. It has not been my practice to check the blues since I have been in the Senate for the past 17 years. That is why I am sure there are many misnomers attributed to things that I have said in the Hansard.

It seems to me there is an agreement in the house that we deem that leave has been granted so that we can proceed.

**Senator Fraser:** I have suggested that we deem the proceedings yesterday to have consisted of two days' notice for the motion in question, which would bring us to Tuesday.

• (1530)

**The Hon. the Speaker:** Is it agreeable, honourable senators?

**Hon. Senators:** Agreed.

## PARLIAMENTARY EMPLOYMENT AND STAFF RELATIONS ACT

### BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Robichaud, P.C., for the second reading of Bill S-219, to amend the Parliamentary Employment and Staff Relations Act.—(*Honourable Senator Andreychuk*)

**The Hon. the Speaker:** Senator Andreychuk was speaking on this item when we arrived at a bell at four o'clock.

**Hon. A. Raynell Andreychuk:** Thank you, honourable senators. I rose yesterday to speak to Bill S-219, a bill that Senator Joyal introduced in this chamber. I will resist rereading the comments I made yesterday. However, Bill S-219 has three key changes to our existing laws.

First, it will amend the Parliamentary Employment and Staff Relations Act, PESRA, to provide for notice to be given to the Canadian Human Rights Commission when a grievance referred to adjudication raises an issue involving the interpretation of the application of the Canadian Human Rights Act. This provision will create a link between PESRA and the Human Rights Act.

Second, it will set out the powers of an adjudicator named under the Parliamentary Employment and Staff Relations Act to interpret and apply the Canadian Human Rights Act.

Third, it will repeal subsection 4(1) of the Parliamentary Employment and Staff Relations Act that gives privileges, immunities and powers referred to in the non-derogation clause, section 4 of the Parliament of Canada Act.

Honourable senators, this bill will deal specifically with the gaps that currently exist. In particular, it will ensure that employees who are covered by PESRA will have the full protection of the Human Rights Act, eliminating any discrepancies that currently exist.

Senator Joyal has chosen the legislative route in Bill S-219. It warrants study, and the gap for employees is certainly one that needs to be addressed. However, I would like to explore further whether a legislative answer is necessary to the problem or whether regulations or rules within the Senate would provide for this assurance for employees without unnecessarily yielding rights and privileges of parliamentarians. I further believe that we should be consistent, or at least attempt to be consistent with the other House.

For example, the *Vaid* decision makes it clear that it is not necessary to repeal subsection 4(1) of PESRA to make a link to

the Canadian Human Rights Act. Again, the Supreme Court stated clearly that:

The Canadian Human Rights Act applies to all employees of the federal government, including those working for Parliament.

Of particular concern is that curtailing the privileges, immunities and powers referred to in the non-derogation clause may lead to a greater number of difficulties. We should also note that the House of Commons Board of Internal Economy has asked the House staff to develop options on how to ensure that parliamentary staff have appropriate provisions for ensuring the protection of their human rights.

We should also be mindful of the employees working within our respective offices. As we take this issue on, we should consider another related issue: Privileged employees — our clerks in this chamber, as well as the Black Rod — have no protection. They are not covered under PESRA or under the Public Service Labour Relations Act. Should they have a grievance, from a legal standpoint they may be amongst the least-protected individuals in this country.

Therefore, I thank Senator Joyal for his continuance in following this issue and in ensuring that we in the Senate deal with this problem of lack of full compliance with the Canadian Human Rights Act. I believe that the bill should be studied with the previous order within a broader assessment of the compliance with the Canadian Charter of Rights and Freedoms and other human rights legislation in Canada.

I believe that if this bill is referred to the Standing Committee on Rules, Procedures and Rights of Parliament, this will give us an opportunity to study the bill fully and any related other solutions that may be appropriate. Thank you, honourable senators.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**An Hon. Senator:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read a second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker:** When shall this bill be read a third time?

On motion of Senator Carstairs, bill referred to the Standing Committee on Rules, Procedures and Rights of Parliament.

## BANKRUPTCY AND INSOLVENCY ACT

### BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

**Hon. Yoine Goldstein** moved second reading of Bill S-227, to amend the Bankruptcy and Insolvency Act (student loans).—(*Honourable Senator Goldstein*)



He said: Honourable senators, Bill S-227 is a bill intended to provide needed relief to young Canadians who have borrowed money to pay for their education and find themselves unable to repay their loans.

As a key to this debate, in which I hope many of you will actively participate, I want to explore with you, first, the Canadian student loans programs; second, the Bankruptcy and Insolvency Act provisions relating to student loans; and third, the thrust and intent of the proposed amendment.

To do this, I am borrowing and drawing liberally — and I hope that the term does not offend honourable senators on this side of the chamber — from excellent research by Professor Stephanie Ben-Ishai of the Osgoode Hall Law School, an excellent if brief description of the Canada Student Loans Program by Tim Riordan Raaflaub of the Parliamentary Information and Research Service and a paper by Constantine Capsalis on the factors affecting the repayment of student loans.

Let me start with the student loans program itself. In 1964 the Government of Canada established the Canada Student Loans Program to help young Canadians finance the costs of their post-secondary education. This program is available today — with amendments I will talk about in a few moments — in all provinces and territories except for Quebec, the Northwest Territories and Nunavut, each of which have their own programs and receive independent funding from the federal government to offer their own student assistance programs.

The Canada Student Loans Program provides loans to full- and part-time students at the post-secondary level. “Post-secondary” is defined as including colleges, universities and private institutions offering, predominantly, trade education.

Students are generally eligible for these loans provided that their income and that of their parents, in accordance with a particular formula, does not exceed a certain threshold each year.

• (1540)

The program was designed to supplement the resources of individuals and their families by providing loans to students who could demonstrate need. The interest rate was set by the Canadian government, which paid the loan interest to the lending institutions, usually banks, during the period of student enrolment and for a period of six months thereafter. The borrowers were given up to nine and a half years to repay their loans.

Certain statutory changes were made in 1981 and again in 1983. Loans for part-time students were introduced, and an interest-relief program was established so that low-income borrowers who, after graduation, remained unemployed or were sick or disabled could apply to have the federal government pay the interest on their loans for up to an additional 18 months.

With the increasing cost of education, the program was completely restructured in 1994 with the passage of the Canada Student Financial Assistance Act. The way in which financial need was assessed was changed, and a number of other changes were made to allow students to receive large loans. A program

was introduced to essentially assist students with permanent disabilities.

From 1994 onwards, borrowers were expected to enrol in a program leading to a degree, a diploma or a certificate and were required to make what the statute called “satisfactory progress” each year.

In 1995, the Government of Canada stopped guaranteeing new loans. This meant that the lending financial institutions would now assume the risk when the borrowers defaulted, but the government paid them a risk fee or a risk premium equal to 5 per cent of the value of the loan, which they consolidated each year upon the graduation of the student.

In 1997, the program was further amended to allow for interest relief for as much as 30 months, up from the 18 months envisaged in 1983. At the same time, it became possible to extend the loan repayment period from nine and a half years to 15 years and extend interest relief to a maximum of 54 months. In addition, a new Debt Reduction and Repayment measure provided that up to \$10,000 of the capital of the student loan could be forgiven once interest relief had been exhausted. Canada Study Grants for students with dependants also became available at that time.

In 2000, financial institutions generally withdrew from the plan, and the federal government accordingly introduced directly financed loans. Two separate organizations now handle loans made to students.

In 2003, the plan was again changed to allow protected persons, including special convention refugees, to apply for those grants.

The 2004 budget had the effect of reducing parental contributions expected from middle-income families, and a new grant of up to \$3,000 was made available to first-year students from low-income families to assist with tuition costs. Income thresholds for interest relief rose by 5 per cent, and the Debt Reduction and Repayment measure was amended to allow borrowers to have up to \$26,000 of their loan forgiven.

The 2006 budget provided that loan eligibility for students from families with incomes between \$65,000 and \$140,000 per year would be expanded and in August 2007, reduced parental contributions are expected to enhance loan assistance for some 25,000 individuals.

The program, honourable senators, has achieved remarkable penetration. In the education year 2003-04, over 340,000 full-time students received a student loan, and the average loan obtained by these borrowers was over \$4,800 per year.

The program is one of Canada's great success stories, and we should be justly proud of a system that permits students from low- and middle-income families to complete their education by obtaining interest-assisted loans reimbursable over a very long period of time.

The obvious intention is that enhanced earnings resulting from enhanced education would be used to reimburse these loans, and it generally works well.

Since almost a decade and sometimes more is allowed for reimbursement for loans following their consolidation on the graduation of the student, it is interesting to look at statistics with

respect to students who graduated in 1994-95, some 10 years later, because they have had almost a decade to reimburse. About 128,000 students consolidated their student debts that year. Nine years after consolidation, 39 per cent of the students had repaid their loans in full, 30 per cent were still making payments but were in good standing, and 31 per cent were in default. Default, however, is not defined as a permanent loss but rather as being in arrears for three months or longer. The statistic with respect to supposed defaulted loans, although it stands at 31 per cent, is factually considered to be lower.

It is encouraging to note that two years after graduation, fully 20 per cent of graduates with student debt had paid off their loan completely. For those with debts still remaining two years after graduation, about a quarter of the debt had been paid off, more than would be paid off by a graduate making regular payments with the standard 10-year repayment cycle.

Some former students, however, are unable to repay their loans. This inability can arise from a number of factors. One important reason is the fact that trade schools are included in the definition of post-secondary education, and some students borrow to complete trade schools and find themselves unable to find a job in the trade for which they were trained. Other students are unable to find jobs for other reasons. Still others drop out and never complete their studies and therefore are unable to find employment in their chosen field. Some become sick. Some suffer other personal problems or issues which preclude their ability to pay.

Whatever the reasons may be, two clear facts emerge from the research and the literature. First, debt size is a factor in non-repayment only for very large student debt, and, second, the type of study the student engages in is less important than the student's future income.

One further thing is clear, and this is essential for an understanding of the philosophy behind this proposed bill: There is absolutely no evidence at all that students have been abusing the bankruptcy process to rid themselves of student debt.

However, looking at bankruptcy legislation in connection with student loans, one would think that abuse has occurred. This is not the case. The research is clear and consistent: abuse of the bankruptcy process is not a factor in the non-reimbursement of student loans.

In order to deal intelligently with the provisions of the Bankruptcy and Insolvency Act relating to student loans, we should first take another look at the discharge process.

The general philosophy of the Bankruptcy and Insolvency Act in so far as consumer debtors are concerned is that the unfortunate debtor who acts in good faith but cannot meet his or her financial obligations should be relieved of those obligations so that the debtor may make a fresh start and integrate himself or herself in the economy of the society in which the debtor lives, free from the crushing burden of their indebtedness so that they may once again participate in the economic and social life of the society in which they live as free actors. The Bankruptcy and Insolvency Act provides, with very rare exceptions, that where a person goes into bankruptcy, he or she is liberated from his or her debts automatically nine months after going into bankruptcy.

Those that abuse the process, and there are some, and go into bankruptcy a second time are subject to a different regime, and those who have sufficient excess income to pay some portion of their debts are obliged to do so.

However, even first-time bankrupts are not liberated from all of their debts. For instance, they are obviously not liberated from the obligation to pay alimony or family maintenance. They are not liberated from a debt that was incurred as a result of misrepresentation or fraud. They are not liberated from the obligation to pay fines, if fines have been assessed.

In 1997, an amendment to the bankruptcy legislation was introduced to preclude discharge of student debts if the bankruptcy had occurred within two years of the bankrupt leaving school. That meant that a person who had left school with student loans was unable to obtain relief from those loans until at least two years had passed since the time that the student had terminated his or her studies. By an amendment introduced in 1998, this two-year exception to discharge was increased to 10 years, making it virtually impossible for students to obtain a discharge of their student loans.

This provision did not prevent the banks from abandoning the program in 2000, less than two years after this amendment came into force.

• (1550)

There is no evidence that this draconian provision did anything to enhance the collectability of student loans. Certainly, it granted no relief to former students who were unable to find jobs or to earn a sufficient amount of money to discharge their student loans.

The Personal Insolvency Task Force, which I had the honour to chair, and which issued its report in 2002, and the Standing Senate Committee on Banking, Trade and Commerce, which issued its report in 2003, both recommended that the exception to discharge for government student loans should be amended and not be dischargeable in situations where it had been less than five years since the bankrupts completed full- or part-time studies. Both reports recommended an amendment that would provide courts with the discretion to confirm the discharge of all or a portion of a government student loan before the five-year period had elapsed where the bankrupt could establish that the burden of maintaining the liability for some or all of the debt would result in financial hardship.

Bill C-55, which we all remember, was passed in this chamber shortly before the fall of the Liberal government. Notwithstanding its terrible flaws, it would reduce the period for the exception to discharge for government student loans from 10 years to seven years following the completion of full- or part-time studies. The bill would also reduce the period of time before an application for relief from the exception to discharge could be made to the courts from 10 years to five years.

Professor Ben-Ishai suggests, in her study, that student loans should be treated like any other debt, and should be subject to discharge like any other debt. She suggests that if there is abuse,



our courts are well able to deal with such abuse and provide, as a condition of discharge, that the debtor must pay all or a portion of his or her student loans.

The present legislation proposed by Bill C-55 leads to inhuman results. Senators Angus, Biron, Hervieux-Payette, Moore, Oliver and Tkachuk — and I believe Senator Meighen was part of the committee at that point, as well — will recall with me the gripping and depressing story told to us in 2003 by a young single mother from the Maritimes who had left medical school after her third year, had not completed her studies and was saddled with tremendous debt which she could not repay. We were also told the story of a suicide in the Maritimes by someone who could not pay her student loan because of the draconian provision providing for a 10-year delay.

The legislation, in this case, forced this young woman to remain in a condition of inability to pay, coupled with inability to escape — sort of permanently enslaved to debt. She and her child were victims, and their victimization really victimized society because she could not reintegrate herself, because of the Bankruptcy and Insolvency Act provisions, as a useful member of society.

Honourable senators, this bill does not propose to do away with some special status for student loans in the event of bankruptcy. There is something that is difficult to accept in having all society pick up the liability for student loans where the student has gone bankrupt while the student benefits from the education which has been paid for by the loan — and, therefore, by society.

Accordingly, this bill proposes that the liability for a student loan will not be discharged if the student goes into bankruptcy within the two years next following the termination of his or her studies. This two-year period permits the student to take stock of his or her situation, seek and obtain employment and make a serious and honest effort to repay the loans.

The two-year suspension was chosen with care. The statistics are that fully one third of student loans are reimbursed within the two years next following the graduation of the student. However, there may be some situations where it is apparent that the student simply cannot repay, even after the two years.

Accordingly, this bill envisages the possibility of the student seeking an order from the court, even within the two-year period, that the debt is discharged. The court, however, with respect to that application, according to the bill, may refuse the application, leaving the debt intact or may grant the application, relieving the student of the debt. The court may also order a partial reimbursement of the debt or other appropriate conditions, having regard to circumstances. In all of these cases, where the student is seeking relief, the burden will be on the student to establish hardship in reimbursing the loan.

Honourable senators, this proposed amendment is a humane, sensitive and decent compromise between the need for students, like all citizens, to honour their obligations on the one hand, and the need for society to grant relief to those in society who cannot cope with the requirement to fully repay the student loans.

Bill S-227 is non-partisan. It is neither Liberal nor Conservative; it is Canadian. I respectfully commend it to honourable senators for earnest consideration.

**Hon. Lowell Murray:** Honourable senators, I had not intended to take part in this debate and I will keep you for only a minute or two. I want to congratulate the honourable senator on his initiative, and especially on his extremely informative, interesting and thorough speech.

It seems to me that with the initiative he is taking with this legislation, we will want to and need to consider the Canada student loan regime as a whole. In that connection, I want to draw the attention of honourable senators to one of the chapters of the Auditor General's report earlier this month, which dealt with the Canada Student Loans Program.

Last night, the Auditor General was a witness at the Standing Senate Committee on National Finance. Among other things, she pointed out that an evaluation of the Canada Student Loans Program is long overdue. I will read only a sentence from her testimony last night.

[Translation]

In reference to the Department of Human Resources and Social Development, the Auditor General had this to say:

... although the Department committed to completing an evaluation of the Canada Student Loans Program in 2006, it has not yet done so. We think the Department should evaluate this program to see if it has indeed improved access to higher education, as Parliament intended.

[English]

A bit later, during the period for questioning, she said:

With respect to the Canada Student Loans Program, there had been a commitment to do an evaluation by 2006. That has changed. They are now talking about doing an evaluation in phases, which will not be completed until 2011. We think that is too long and should be done much earlier to ensure the program is providing the results that are expected.

I simply want to express the hope that when my friend's bill goes to committee that honourable senators will take the opportunity to put the feet of certain officials — or even ministers — to the fire on this subject.

On motion of Senator Tkachuk, debate adjourned.

## KYOTO PROTOCOL IMPLEMENTATION BILL

### REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Trenholme Counsell, for the third reading of Bill C-288, to ensure Canada meets its global climate change obligations under the Kyoto Protocol.—(Honourable Senator Tkachuk)

**Hon. David Tkachuk:** Honourable senators, I want to begin by citing an article published last week in the *National Post*. A top United Nations official said he is no longer alarmed by Canada's stand on the Kyoto Protocol now that he better understands the Conservative government's position. According to the article, the official said that he now understands that Prime Minister Harper's government was not rejecting the value of the Kyoto Protocol but rather was making the observation that its objectives cannot be met within the target deadline.

• (1600)

The official in question was none other than the Executive Secretary to the United Nations Framework Convention on Climate Change, Mr. Yvo de Boer. The man most responsible for dealing with climate change at the United Nations seems to be unphased that the short-term targets cannot be met. I will try to show this afternoon that we are not the only ones.

Honourable senators, we made it plain in the committee hearings on this bill that this government takes climate change seriously and is determined to do something about it. In April, Minister Baird introduced *Turning the Corner: An Action Plan to Reduce Greenhouse Gases and Air Pollution*. The plan moves beyond the Liberal platitudes about reducing greenhouse gases when they were in government. It, for the first time, imposes mandatory targets on industry to reduce greenhouse gases. More than that, the plan will cut industry-generated air pollution by one-half by 2015. These are serious targets and they are reasonable targets. They are also targets that can be met without causing untold harm to the economy.

Honourable senators, the impact of Bill C-288 on the Canadian economy would be devastating. We produced our own analysis of exactly what that cost would be and while the Liberals have spent a great deal of time criticizing our figures they have yet to produce a detailed plan of their own, not while they were in government, according to the environment minister and not now while they are out of government.

In the target period, 2008-12, our study estimates that Bill C-288 would result in 275,000 Canadians losing their jobs by 2009. Their electricity bills and those of other Canadians lucky enough to keep their jobs would jump 50 per cent after 2010. The cost of filling up your car would jump 60 per cent and the cost of heating your home with natural gas would double. The study also shows that Canada's GDP would decline by over 4.2 per cent and that Canada would be thrust into a recession on a par with what took place in 1981-82, which was the worst recession since the Second World War.

Our study also estimates that the personal disposable income of Canadians would be reduced by \$4,000 annually. This figure should be familiar to those opposite because it is about the same as what they estimated some seven years ago. I believe the figure they used then was \$4,400. The difference is that under their watch, emissions increased so that today we are faced with a situation in which greenhouse gases have increased by 35 per cent above the 1990 baseline level.

Bill C-288 asks us to do in eight months what the Liberals gave themselves 10 years to do and did not do. Instead, they increased emissions. Let us be clear about that and let us be clear that the price for meeting the Kyoto targets will be borne by all Canadians.

Senator Munson was on record as saying he would not mind being taxed if it would mean helping the environment. *The Globe and Mail* quoted Senator Munson as saying that however Kyoto works itself out, if you want to tax me today for the future, go ahead and tax me. That is fine for him, but not all Canadians have an income of \$125,000 per year; and not all Canadians have job security until they are 75 years old; and not all Canadians would be able to bear another government tax that would reduce their annual income by some \$4,000.

The Canadian Chamber of Commerce has issued its own assessment. The implementation of the Kyoto Protocol, they say, will cost \$30 billion, or 2.5 per cent of the GDP by 2010. In 2002, the Liberals predicted a loss of 200,000 jobs and a decrease of 1.5 per cent in the GDP. Yet, when we point out the difficulty of meeting the Kyoto short-term targets as prescribed by Bill C-288, the Liberals — the same people who put us in this position in the first place — call us defeatist.

Honourable senators, I will quote something that Senator Mitchell said in one form or another a number of times in committee. This comes from the hearings with industry representatives. Senator Mitchell said:

What gets me is that sense of defeatism of this continual regurgitation of this line that focuses on what is not possible. It seems to me if we could simply focus on what is possible, we should be absolutely surprised . . . .

They point to good old Canadian ingenuity. However, when you go to the European community and speak the truth, as former Environment Minister Ambrose has done; when you take action against hazardous chemicals, as this government has done; when you put a plan on the table that outlines the costs of C-288, again as Minister Baird has done; and when you set mandatory targets for GHG emissions reductions, as Minister Baird has done; in 15 months we did all these things, and all they do is criticize our numbers and our assumptions.

What did the Liberals do in 10 years? The Liberals misled Canadians, they did not meet any of their goals, they failed to implement successfully any one of their numerous plans to reduce emissions, and they provided no costs because they did not have a plan.

The Montreal Economic Institute, which surveyed the various parties on the economic costs of the Kyoto Protocol, wrote a letter and asked each party to respond to a series of questions. The second question they asked was: How much do you believe the implementation of Kyoto will cost? That is a pretty straightforward question. I will repeat it. How much do you believe implementation of Kyoto will cost?

The following is the answer given by the Liberal Party to that question, and I quote:

In April 2005, the Liberal Government released *Moving Forward on Climate Change: A Plan for Honouring our Kyoto Commitment*. The plan outlines the core mechanisms and strategies the Liberal Government will use to implement the Kyoto Protocol. It is estimated that the approaches outlined will reduce greenhouse gases emissions (GHG) by at least 270 megatonnes annually by 2012. The associated



federal investment plan will be in the range of \$10 billion through 2012. The Liberal government approach to climate change builds on previous approaches and incorporates transparency, ongoing evaluation and learning.

Honourable senators, except when it comes to costs.

The answer continued:

We will make modifications and course corrections to our plan over time, including an annual review and reallocation of climate change spending to ensure that investments are effective and cost-efficient and result in real and verifiable GHG emissions reductions. As well, annual reports will be made to update Canadians on our progress beginning in 2008.

Timely investments in innovative technologies for energy use and production not only have the potential to reduce our GHG emissions but also can open up economic opportunities. Canada's climate change-related investments to date have delivered energy efficiency, energy conservation and cost savings across the economy.

What was the question again? The last bit looks like it came close but estimating what you think your saving might be is not the same as answering the question: How much do you believe the implementation of Kyoto will cost? No answer.

**Senator Segal:** Shame.

**Senator Tkachuk:** We have answered that question and they have not. When the Liberals are asked directly to answer the question, they avoid doing so. Senator Mitchell has called for Canadian ingenuity. He said in committee, and I quote:

I am also struck that I can see that the same kind of attitude amongst those people who say we should not have started building the railroad 150 years ago because it could not be done, or we should not get involved in World War I because we could not possibly win, or we should not get involved in World War II because it would be too large a thing for Canadians to accomplish. In fact, those things were all done.

This comment comes from a Liberal senator whose party wants us to abandon the fight against terrorism in Afghanistan. I guess that so-called can-do attitude applies only to the most serious threat facing Canada in the last 50 years. When it comes to the fight against terrorism, a minor affair, I suppose, according to Senator Mitchell, but one in which Canadian and U.S. lives are actually being lost. "It can't be done" seems to be the Liberal mantra. Where is that can-do attitude that they want us to apply to the environment? Mysteriously absent.

They have also criticized us for referring to the past and the fact that had the Liberals done more to reduce GHG emissions, we would have to do less.

Senator Mitchell, the sponsor of this bill in the Senate, chastised us for focusing on the past as part of our defeatist attitude. His exact words were:

A corollary of that approach. . .

• (1610)

That approach being defeatism

. . . is focusing on the past and making this argument to defend not doing anything by arguing that someone else did not do enough.

His references are World War I, the railroad and World War II. I guess the lesson is that the Liberals can refer to the past when it suits them, but Conservatives cannot, or is it that you can refer to the past when you are talking about things that got done, but you cannot refer to it when you are talking about things that did not get done, like reducing greenhouse gas emissions. I should be on safe ground then when I refer to what the Liberals got done in the past, so I will say it again. They increased GHGs by 35 per cent above the 1990 baseline level for Kyoto.

I should be on safe ground with the Liberals with that reference, but what does one expect from a party whose patron saint these days seems to be Al Gore, a man whose country, when he was Vice-President of the United States, refused to even sign the Kyoto Protocol, much less ratify it or set targets for GHG emissions. He is now the Liberal poster boy for climate change.

Al Gore and his Liberal buddies: Friends, both once in government, now seeking redemption. As Catholics, we would refer to "purgatory." As Protestants, perhaps "born again." Sinning, living the high life, ignoring environmental and treaty obligations and then in defeat, please, God save us. The only difference is, there is no repentance. Unashamed, they blame the newly elected government for not saving the planet. Al Gore is like the Liberals in that they blame everyone but themselves.

Let me read what *Maclean's* magazine had to say about Al Gore:

The collapse of the Greenland ice sheet at the hands of global warming will increase worldwide sea levels by nearly seven metres, Gore states. He sketches out that the impact this will have: India and Bangladesh will be inundated. Forty million people will be displaced around Shanghai. Florida will all but disappear. Most cruel of all, however, is the effect on New York City. His graphics then show a blue tide of water slowly swallowing up city streets. "This is what will happen to Manhattan. They [scientists] can measure this precisely." In a whisper, he adds: "The area where the World Trade Center Memorial is to be located would be under water." It is perhaps the most powerful moment in the movie. Yet, like the bulk of Gore's message, it is also heavily exaggerated and of questionable practical value.

Those scientists in which Gore puts so much faith do discuss the possibility of a failure of Greenland's ice. In fact, the February 2007 report of the UN's Intergovernmental Panel on Climate Change mentions the possibility of a seven-metre rise in the oceans.

But that report also says global warming would have to continue "for millennia" for this to occur. Gore's Manhattan/Atlantis scenario is thus a potential risk sometime after 4007. It is not exactly a clear and present danger. We bring this up not because global warming or environmentalism are things to be ignored — they are

important issues to be sure — but to point out Gore's frequent distance from the useful truth. His comment last week in Toronto that the Conservative government's environmental plan is a "complete and total fraud . . . designed to mislead the Canadian people" is as exaggerated and misplaced as his movie's scaremongering. It is never a fraud to be honest. However painful it may be for single-minded idealists like Gore to admit, it is an absolute impossibility for Canada to meet its 2012 Kyoto targets without triggering economic collapse.

Honourable senators, as we have said countless times in committee, this bill is flawed. It does not take into account the devastating effect for Canadians of meeting the short-term Kyoto targets. The Conservative government has come up with a plan that is reasonable, a plan that is guided by a balanced commitment to environmental protection and economic stewardship. In fact, we have already taken steps towards real reductions in greenhouse gases. We remain committed to the principles and objectives of the United Nations Framework on Climate Change and the Kyoto Protocol. However, the economic and social impacts of Kyoto must be considered when taking action on the environment, and those impacts are far different now than they would have been 10 or even five years ago.

To reach our targets beginning in 2008, Canada would be required to reduce its GHG emissions by an average of 33 per cent each year of the Kyoto commitment period. That simply cannot be done without foisting untold hardships on Canadians.

However, we are faced here with a private member's bill introduced by a Liberal member of Parliament that says we have to. Never mind the implications of this bill on the economy, what does it say about accountability? We have before us a bill introduced and supported by someone who will bear no responsibility for what happens as a result of this legislation. Neither Mr. Rodrigues nor Senator Mitchell will be held to account should Bill C-288 steer the economy into a nosedive. No, only the people who opposed this bill, who voted against this bill in the other place will be the ones held accountable for its effects. How perverse is that?

We heard testimony in committee, though not nearly enough, about the sea change that this piece of legislation heralded. Mr. James Hurley, a constitutional expert who appeared before the Standing Senate Committee on Energy, the Environment and Natural Resources, explained it this way:

Because it must maintain the confidence of the house, the assumption is that the government is responsible for the legislative output of Parliament and will be held accountable to the electorate when the next general election is held. . .

Bill C-288 would reverse this dynamic, for in passing the bill, Parliament would be imposing its will on an unwilling government by compelling it to do something it does not wish to do. . .

It follows that while there are relatively minor precedents for Parliament proposing and imposing measures on the government, there are no precedents of the magnitude of

Bill C-288, which seeks to resolve one of the most prominent and hotly debated public policy issues facing Canadians by obliging the government to implement the Kyoto Protocol, which it does not wish to do.

Certainly an issue of that magnitude warrants more debate than what was given to Bill C-288. An issue this important to Canadians warrants a full debate and the Liberals denied us that opportunity in committee.

We asked for more witnesses to be heard, but the Liberals who have been dragging out Bill S-4 for a year now are in a rush to push through Bill C-288. They did not want to hear from more witnesses.

Once we knew they were determined to go clause by clause, we, being few in number, used the procedural tools at our disposal to encourage further consideration of this bill. We managed to inconvenience the Liberals, but we did nothing to prevent them from carrying out their parliamentary duties. They, on the other hand, took advantage of our low numbers and prevented us from even participating in clause-by-clause consideration of this bill.

One is left wondering what the rush is all about. After all, Senator Banks said in 2002:

Let us look at the Kyoto Accord. Kyoto's purpose is not to reverse climate change. It is not to fix the problem. It is not to be the solution. No one ever said that it was. . . "It will not solve the problem," . . . No one ever said that it would. It will not by itself seriously reduce global emissions. No one ever said that it would. Those are not the goals of Kyoto. . . It is the beginning. It is a tiny baby step in the process of challenging our collective minds.

Given that Bill C-288 will have a very real economic impact on the lives of Canadians — and we all agree that it will — what is the rush? We need to take that first step, no doubt, but what is the harm in taking the time to make sure that, in doing so, we do not make that first baby step a giant misstep?

I will read to a letter from Don Drummond, one of Canada's foremost economists. He was one of the leading economists asked to review our cost study. Upon review, he supported this study.

• (1620)

He wrote:

Canadians need to focus now on sound environmental initiatives that will be achieved over a realistic time frame. The course will only be adhered to if economic costs are mitigated. This is not a call for procrastination, quite the contrary. A comprehensive environmental policy should be set out very soon. The policy should target substantial progress in reducing emission within the first Kyoto period and greater progress over time.

This is a reasonable thing to ask. It is not what Bill C-288 asks. Bill C-288 asks us to do what few, if any, nations with Kyoto targets have been able to do. Let us look at the European Union,



which Senator Mitchell has constantly referred to as an example for us to follow. Let me cite what *The Economist* has to say on this. In an article in the issue of March 15, the author wrote:

The targets may have a practical purpose; but they also need to be met. The EU's credibility as a role model rather depends on it. But the Europeans have a bad habit of missing their own targets. All 27 EU members signed up to Kyoto, but most have not cut their own greenhouse gases enough to meet their targets.

In fact, Denmark, Spain, Portugal, Italy and Ireland, according to the David Suzuki Foundation, have experienced significant emission increases and are unlikely to meet their allocated reduction targets. Then there is Norway. Norway has a profile similar to that of Canada. It is a northern country with substantial oil and gas development and export. Its target was to increase emissions by no more than 1 per cent. They were not going to cut. They have in fact increased by 9 per cent above 1990 levels and that figure continues to rise. That is a better record than that of Canada under the Liberals, but still a rise. Again, this is also according to the David Suzuki Foundation.

Austria is not expected to meet its Kyoto targets. Neither will Belgium, according to The Wilderness Society, an Australian environmental group.

What about those European nations that have met their Kyoto targets? France is often cited as one, but France is on track because France derives nearly 80 per cent of its energy from its 58 nuclear reactors — not a bad plan. I would support that type of strategy and have been supporting it for about 20 years. That would make me an environmentalist, I think. If, 20 years ago, this country had taken my advice, we would have met our greenhouse gas emission targets. Saskatchewan would have been Alberta. We would have relieved some of that pressure from the province that Senator Banks comes from.

However, there is widespread opposition to the use of nuclear energy in Canada. What is the big difference? In France there is little or no public opposition to nuclear energy.

We must then turn to Britain. Liberals have pointed to their grand record on Kyoto, but fail to mention — and this rather ironic — that the record was made possible from the shift away from coal, which dominated the energy industry in that country until the mid-1980s. It was then that Margaret Thatcher, the Conservative Prime Minister of Britain, won a year-long dispute with the trade unions and shut down most of the mines. Britain now uses natural gas rather than coal and has met its Kyoto targets.

On the new targets that Britain set for itself, I am sorry, they have not been met.

Honourable senators, I would like to move an amendment to Bill C-288. There are a number of amendments I had in mind to put in committee and, had I been given the opportunity to do so, would have done so. In the interest of the reasonableness, I have pared them down to what I think are the most necessary.

The effect of some is to follow parliamentary tradition in terms of time limits, for example, the number of days a minister usually has in the house to table reports. Others recognize that Canada is trying to meet its Kyoto targets but that some of the factors in meeting these targets are beyond any one order of government's jurisdiction. Still others incorporate some of what was in the Liberal Party Green Plan.

#### MOTION IN AMENDMENT

**Hon. David Tkachuk:** Accordingly I move:

That Bill C-288 be not now read a third time but that it be amended,

(a) in clause 3, on page 3, by replacing line 19 with the following:

“Canada makes all reasonable efforts to take effective and timely action to meet”;

(b) in clause 5,

(i) on page 4,

(A) by replacing line 2 with the following:

“to ensure that Canada makes all reasonable efforts to meet its obligations”;

(B) by replacing line 6 with the following:

“ance standards for vehicle emissions that meet or exceed international best practices for any prescribed class of motor vehicle for any year,” and

(C) by adding after line 13 the following:

“(iii.2) the recognition of early action to reduce greenhouse gas emissions, and” —

This is for Senator Banks, and it is to recognize companies that have already taken action on greenhouse gas emissions and to ensure that they get recognized, which is a part of his plan and part of the Liberal plan.

(ii) on page 5,

(A) by replacing line 9 with the following:

“(a) within 10 days after the expiry of each”;

(B) by replacing line 23 with the following:

“first 15 days on which that House is sitting”, and

(C) by replacing lines 26 and 27 with the following:

“each House of Parliament is deemed to be referred to the standing committee of the Senate and the House of Commons that”;

(c) in clause 6, on page 6, by adding after line 29 the following:

“(3) For the purposes of this Act, the Governor-in-Council may make regulations restricting emissions by “large industrial emitters”, persons that the Governor-in-Council considers are particularly responsible for a large portion of Canada’s greenhouse gas emissions, namely,

(a) persons that are part of the electricity generation sector, including persons that use fossil fuels to produce electricity;

(b) persons that are part of the upstream oil and gas sector, including persons that produce and transport fossil fuels but excluding petroleum refiners and distributors of natural gas to end users; and

(c) persons that are part of energy-intensive industries, including persons that use energy derived from fossil fuels, petroleum refiners and distributors of natural gas to end users.”;

(d) in clause 7,

(i) on page 6,

(A) by replacing line 32 with the following:

“that Canada makes all reasonable attempts to meet its obligations under”, and

(B) by replacing line 38 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 7, by replacing line 4 with the following:

“(3) In ensuring that Canada makes all reasonable attempts to meet its”;

(e) in clause 9,

(i) on page 7, by replacing line 33 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 8,

(A) by replacing line 3 with the following:

“Minister considers appropriate within 30 days”, and

(B) by replacing line 7 with the following:

“(1) or on any of the first fifteen days on which”;

(f) in clause 10,

(i) on page 8,

(A) by replacing line 9 with the following:

“10. (1) Within 180 days after the Minister”,

(B) by replacing line 11 with the following:

“tion 5(3), or within 90 days after the Minister”, and

(C) by replacing line 38 with the following:

“(a) within 15 days after receiving the”, and

(ii) on page 9,

(A) by replacing line 6 with the following:

“Houses on any of the first 15 days on”, and

(B) by replacing line 9 with the following

“(b) within 30 days after receiving the advice.”;

(g) in clause 10.1, on page 9,

(i) by replacing line 17 with the following:

“and Sustainable Development may prepare a”,

(ii) by replacing line 32 with the following:

“report to the Speakers of the Senate and the House of Commons”, and

(iii) by replacing lines 34 and 35 with the following:

“Speakers shall table the report in their respective Houses on any of the first 15 days on which that House”

I have here for the page the amendments, in French and English, which I would like to hand to her.

• (1630)

**Hon. Grant Mitchell:** Honourable senators, I have to begin this response and the debate of this amendment with an apology. I wish that whatever we did had not poked that hornet’s nest so hard, because I feel in part responsible for honourable senators being subjected to this diatribe for the last 45 minutes.

**Some Hon. Senators:** Oh oh!

**Senator Mitchell:** It is a weak argument that resorts to two things.

**Some Hon. Senators:** Order!

**Senator Mitchell:** It is odd that they do not want to let me speak because about 90 per cent of what Senator Tkachuk said was reiterating what I had said in committee. I feel I am actually getting extra time in this debate, so I thank Senator Tkachuk very much.



The fact is the honourable senator resorts to two things: He resorts to rhetoric that amounts to little more than diatribe, little more than rant, and he resorts, as Conservatives do continuously, to blaming. What Conservatives so often do is find something they create as a problem and find someone to blame for that problem. What they do not do and what this government does not do is take responsibility for what it can do to confront problems which it, as the current government, has a responsibility to confront.

**Some Hon. Senators:** Hear, hear!

**Senator Mitchell:** After waiting 13 years — and how many times have we heard “13 years” — to finally get into government so they could set it right and they could do something, what do they spend their time and rhetoric on? They talk about something that someone else did not do. That is the essence of their environmental policy.

If there is a core argument they want to make, believe me, one would have to work hard to find the core of the inspiration of Senator Tkachuk’s argument beyond the past and blaming someone else. If there is a core to the argument, it is somehow that pursuing Kyoto will hurt the economy.

The honourable senator uses three arguments to demonstrate that. First, he refers to Minister Baird’s study. I will say it again, and I will say it slowly: That is perhaps the study with the least credibility of any study that I have ever seen in my entire political career. It is without foundation. It is almost incomprehensible that that study actually undermines its own conclusions definitively on the last page, where it lists seven critical things to climate change policy that it cannot consider within its study.

Seven things are listed that actually diminish the impact and the importance of that study. The study is without credibility. Senator Tkachuk also refers to Dr. Drummond. I believe Dr. Drummond is an economist. The honourable senator should dig deeper into what Dr. Drummond said because Dr. Drummond actually went out of his way several days later to distance himself from that study. What he said is what economists always say about studies. They will say that within the assumptions made upon which that study was based, of course, it has a logical consistency and it concludes within those assumptions something like that study concluded. However, the real argument and the real debate about studies of that nature hinge on the assumptions, and the assumptions of that study were profoundly weak. That is the first argument Senator Tkachuk uses to get at whatever is the economic core of his argument.

The second — and I use the term loosely — fact is the \$30-billion cost that Senator Tkachuk claims. What is revealing is that he says it is 2.5 per cent of Canada’s GDP. Again, his numbers are wrong, just as they were wrong when he and his colleagues could not add the number of people they needed in their seats in order to have quorum when it came to a vote last week. It is reminiscent of what must become a tradition in the Conservative Party now when, in 1979, Joe Clark could not count, either. How many of them were Progressive Conservatives back in that day?

When one takes \$30 billion, which I agree is perhaps the cost; it may be \$30 billion. Do honourable senators know who said that? I think the \$30-billion figure is slightly high. It is probably

\$20 billion to get our Kyoto levels to the level they need to be at to meet Kyoto objectives for the period from now until the end of 2012, which is five and a half years. The figure is \$20 billion to \$30 billion. Even the Chemical Producers Association, that special interest group which the government brought in to defend their side, said the figure is probably \$30 billion.

TransAlta’s former employee, Bob Page, a great guy, said the same thing as the figure that they are clinging to. However, I say to the Honourable Senator Tkachuk that it is \$30 billion not over one year, which would be 2.5 per cent of Canada’s GDP, but over 5.5 years, which makes it less than one half of 1 per cent of Canada’s GDP.

What is deeply frightening to me is that the government has determined that it is impossible to pursue Kyoto objectives on the basis of a single incorrect and analytical mathematical calculation. Senator Tkachuk thinks that \$30 billion over five and a half years is 2.5 per cent of Canada’s GDP. He is five and a half times too high. He cannot add, he cannot subtract, he cannot divide and he cannot figure out what Kyoto will actually cost this country if we do it, let alone what Kyoto will actually cost if we do not do it.

Therefore, I cannot believe that I am left, after listening to that — although I do in fact believe it, I accept it — diatribe that all we have is reference to a study which is categorically without legitimacy and reference to a single figure which is five and a half times too high because Senator Tkachuk cannot figure out what five and a half into \$30 billion over the GDP actually is.

However, we know what comes out of all of this. What comes out of all of this so often, and what this really —

**Senator Segal:** Why didn’t you do it? You had 15 years.

**Senator Mitchell:** — underlines to me is this continuous stream of criticizing — you can speak about this yourself. I am looking forward to it.

However, what comes out of this —

**Senator Stratton:** You didn’t get it done!

**Senator Cowan:** That is Tory position.

**Senator Mitchell:** What comes out of this is a stream of argument that underlines a very powerful observation about the character — and I use that word lightly — of this government. The fact is that they continue to blame other people and they continue to fail to take any responsibility. They continue to act like the opposition party that they were for 13 years and will be again.

I know that for sure because I remember in committee, a couple of the senators on the Conservative side so often doubting and raising doubts about the tradeable permit market. I thought about that and they said, “Well, you can’t trust tradeable permits. We are just buying hot air.” An opposition party would continually say that.

Do you know what a governing party would say, with leadership, vision and that understands it is here to fix things and make them work? They would say, “We need a market for

tradable permits. We need to do that because there are business opportunities in this country that are going to Europe and will go to the U.S. and will be lost to this country.”

They would say, “If there is a problem with tradable permit markets, as a government we will fix the problem. We will figure it out, use our creativity, our resources, our minds — I use “minds” lightly — and we will fix that problem.

• (1640)

Instead, they seek out problems. They are so used to seeking out problems that they do not know how to fix them and they blame, blame, blame. That is not great government. That is tired government. It is not new government. Believe it or not, after 16 months, this government is exhausted.

A second example of where they act like opposition — now I mention Senator Segal. I apologize to Senator Segal, but when he heckled me the last time I spoke, I said I would take him to task about Buzz Hargrove and I forgot. I will do it now. He said to talk to Buzz Hargrove. I say Buzz Hargrove represents a strong constituency: people who deserve good, long-term jobs, people who have helped build this country and its economy. We cannot disregard it.

People like Arnold Schwarzenegger say the cars built in Canada and sold in California will not measure up to the environmental standards required of Californian-bought autos.

**Senator Angus:** Hasta la vista, baby.

**Senator Mitchell:** Instead of saying, Mr. Hargrove you have a problem, oops, we cannot do anything about it, great government would sit down with Buzz Hargrove and all those manufacturers and ask what we can do in Canada to develop a technology that can be developed, built and made in Canada so we can build cars that will be sold everywhere in the world ahead of any other kind of car that anybody wants to sell.

However, with opposition mentality, these people are stuck where they are, mired in the past, mired in blame, mired in failure to take responsibility, mired in heckling, “Talk to Buzz Hargrove,” whatever that means. It means we have a government that is not working and will not be around for long. Finally, we will get back in there and do something about this problem.

I am sorry to distract you from the real arguments by saying that.

I have observed Conservative government for a long time in the Alberta legislature. I thought that government was bad. This one has lowered the bar even further. This is one example. What does Senator Tkachuk argue about the problem with MPs holding a government responsible for taking action on something like Kyoto or Kelowna, for example? It will be the same argument. It has occurred because we have had democratic reform in that place. It is interesting that because we are not achieving democratic reform quickly enough in this place, Senator Stratton wants to blow it up.

**An Hon. Senator:** Shame!

**Senator Mitchell:** He is committed to democratic reform. Yes, shame.

**An Hon. Senator:** Call the RCMP!

**Senator Mitchell:** When we achieve democratic reform in the other place and it actually works to tell government to do something, he does not like it.

Let us analyze the history of that democratic reform. Do you know where giving MPs more power started? It started with the Reform Party, the very roots of his Conservative Party.

**Senator Ringuette:** It is still the Reform Party.

**Senator Mitchell:** It does not matter what you call it because they have tried a number of different names and it is always the same party. It was that party, under Preston Manning, who would be given credit for starting that democratic reform movement. MPs finally had the power to stand up and represent their constituents. I heard that many times in the Alberta legislature. We need to have our representatives stand up and be able to represent their constituents, and if backbench MPs do not have the vote, they do not have power and are told what to do by their leader.

Finally, backbench MPs have the power to stand up and do something without being told what to do by their leader. They stand up and say, “We had better not allow that because that would be too democratic. Would that not give an MP too much power?”

The fact is they have the power. It is democratic reform. It is real democratic reform, and they exercise it. Parliament is supreme.

**Some Hon. Senators:** Hear, hear! Bravo!

**Senator Mitchell:** Senator Tkachuk can stand up and he can diminish the power of those MPs, but in doing so he diminishes the essence and quality and legitimacy of this institution. He should listen to what they did and stop arguing that we need to delay it further. He said it was delayed for 10 years and now he wants to delay it more. How does that work? If we delayed it too long — I accept your argument — then we had better get after it.

That brings me to the fundamental question: Why is he so intense about his argument and reduces himself to rhetoric? Honourable senators can sense the anger, because he is confronted with a government and leader who cannot lead. This issue is huge.

After 13 years of wanting to be in government, they want to be out this week and next because they do not have a legislative agenda. Barack Obama said something in an interview that was powerful to me.

**The Hon. the Speaker:** I regret to advise the honourable senator that his time has expired.

**Some Hon. Senators:** More! More!



**Senator Mitchell:** Barack Obama was interviewed shortly after he announced his candidacy for President of the United States. He was asked whether he was overwhelmed by the magnitude of the problems. He said he was not overwhelmed by the magnitude of the problems, but was overwhelmed by the smallness of the politics.

I look at that Prime Minister and what they are doing — mandatory minimums, fixing a problem that is not a problem, and if it exists will make it worse. Fixed terms for senators is one of their core items because he cannot undertake real Senate reform. There is no big legislative agenda or vision for this country and no sense of social policy or economic policy; improving productivity in this country. There is no sense of developing environmental policy that will mean something for our children, our grandchildren and will take our place in the world. There is simply no sense, no vision and no leadership. That is why we need Bill C-288 and why we cannot deny or delay it. That is why I am voting against this amendment.

**Some Hon. Senators:** Bravo! Bravo!

On motion of Senator Comeau, debate adjourned.

## KELOWNA ACCORD IMPLEMENTATION BILL

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Campbell, seconded by the Honourable Senator Hubley, for the second reading of Bill C-292, to implement the Kelowna Accord.—(*Honourable Senator Stratton*)

**Hon. Terry Stratton:** I have two nicknames: The Enforcer and Guy Fawkes.

I would like to speak this issue, and I assure the house that I will speak next week. I ask that I be able to rewind the clock and I assure you that I will speak next week.

• (1650)

**Senator Fraser:** Tuesday?

**Senator Stratton:** I will either speak Tuesday or Wednesday. I am not sure right now because I want to look at Bill S-6, which Senator St. Germain brought to this place, and see the impact of that on what I have to say. I will try to do it Tuesday or Wednesday.

On motion of Senator Stratton, debate adjourned.

## CONSTITUTION ACT, 1867

### REPORT OF SPECIAL COMMITTEE ON MOTION TO AMEND—MOTION IN AMENDMENT— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Hays, seconded by the Honourable Senator Fraser, for the adoption of the second report of the Special Senate

Committee on Senate Reform (*motion to amend the Constitution of Canada (western regional representation in the Senate), without amendment but with observations*), presented in the Senate on October 26, 2006;

And on the motion in amendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Campbell, that the second report of the Special Senate Committee on Senate Reform be not now adopted but that the motion to amend the Constitution of Canada (western regional representation in the Senate), be amended as follows:

(a) by replacing, in the third paragraph of the motion, the words “British Columbia be made a separate division represented by 12 Senators;” with the following:

“British Columbia be made a separate division represented by 24 Senators;”;

(b) by replacing, in clause 1 of the Schedule to the motion, in section 21, the words “consist of One hundred and seventeen Members” with the following:

“consist of One hundred and twenty-nine Members”;

(c) by replacing, in clause 1 of the Schedule to the motion, in section 22, the words “British Columbia by Twelve Senators;” with the following:

“British Columbia by Twenty-four Senators;”;

(d) by striking out, in clause 2 of the Schedule to the motion, in section 27, the words “or, in the case of British Columbia, Twelve Senators;” and

(e) by replacing, in clause 2 of the Schedule to the motion, in section 28, the words “exceed One hundred and twenty-seven.” with the following:

“exceed One hundred and thirty-nine.”.  
—(*Honourable Senator Tardif*)

**Hon. Joan Fraser:** Honourable senators, I do have a speech prepared on this item. I have been thinking about it for a long time, because it is a very serious issue and, of course, of particular concern to senators from the western provinces and the people that they represent. I have thought so carefully about my speech that it would be my earnest hope that when I deliver it, it will be at a time when all senators are keenly awake and prepared to sit through it. This may not be that time. I would beg, therefore, for senators' consent to adjourn the debate once more for the balance of my time, but I will speak to this important motion next week.

On motion of Senator Fraser, debate adjourned.

## STUDY ON RURAL POVERTY

### INTERIM REPORT OF AGRICULTURE AND FORESTRY COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the consideration of the sixth report (interim) of the Standing Senate Committee on Agriculture and Forestry, entitled: *Understanding Freefall: The Challenge of the Rural Poor*, tabled in the Senate on December 13, 2006.—(Honourable Senator Mercer)

**Hon. Robert W. Peterson:** I would like to adjourn this debate in my name.

On motion of Senator Peterson, debate adjourned.

## QUESTION OF PRIVILEGE

### MOTION TO REFER TO STANDING COMMITTEE ON RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Tkachuk, seconded by the Honourable Senator Angus:

That all matters relating to this question of privilege, including the issues raised by the timing and process of the May 15, 2007 meeting of the Standing Senate Committee on Energy, the Environment and Natural Resources and their effect on the rights and privileges of Senators, be referred to the Standing Committee on Rules, Procedures and the Rights of Parliament for investigation and report; and

That the Committee consider both the written and oral record of the proceedings.—(Honourable Senator Tardif)

**Hon. Hugh Segal:** Honourable senators, I note this motion is adjourned in the name of Senator Tardif. I wonder if she would permit me to speak briefly and then adjourn it in her name. I do want to contribute on this matter, and I promise to be brief. I want to use the compelling case for those who support the bill that brought about this particular motion with respect to an issue of privilege that was made by Senator Mitchell in making the case for why I think colleagues should be very supportive of Senator Tkachuk's motion with respect to the matter of privilege, upon which the Speaker was kind enough to adjudicate a few days ago.

Senator Tkachuk raised the issue in good faith, and Senator Mitchell, as others who believe in this legislation, I think of Senator Banks and do so in good faith, might want to reflect on what I would call the "reasonable person test" of how this particular moment in Senate history will be typified in the future.

Let us assume for a moment that I were a proponent of Bill C-288, which I am not, but if I were a proponent of Bill C-288 —

**Senator St. Germain:** Your phone would not have rung.

**Senator Segal:** — I would want to believe that the passage of Bill C-288 through this place transpired in a fashion where those who were opposed and those who were in favour had an adequate opportunity to express their views, that they were considered in the traditional way of thoughtful reflection and, in its wisdom, this chamber then made its decision. As a proponent of Bill C-288, if I was explaining to my children or grandchildren how we passed that bill, I would not want to say we passed it because we were able to hold a meeting very briefly without the opposite view present in the committee. That is what I would want to be able to say.

Senator Tkachuk's motion on this issue, that the Standing Committee on Rules, Procedures and the Rights of Parliament give due and adequate consideration to the question, allows us as a chamber to reflect upon what transpired at the committee. I do not question the good faith of anybody who was involved in that process. I would never do that.

I also believe, if I may say so, that, as Senator Mitchell contends, Buzz Hargrove should not only be listened to, but should also be confronted, because he is taking a less than broad view of the capacity of Canadian technology to respond. Perhaps allowing him to appear before a committee of the Senate might be a way to have that discussion. Should we deny him that opportunity? What about those people who have been speaking on behalf of anti-poverty groups who have said, "Has anybody worked out the cost of food, transportation, heat, that some of these new provisions as suggested in Bill C-288 might impose on low-income people? Where is the countervailing assistance?" I am not making the case on Bill C-288, which is for another time and place, but I am making the case that a committee of this chamber should have the right to hear those concerns and address them. That is what the motion proposing that the matter go to the Rules Committee suggests.

I want to make one other proposal for consideration. We talk about the issue of parliamentary sovereignty, very much thematically reflected by Senator Mitchell. We talk about the issue of the role of the executive versus the role of the House of Commons and this upper chamber. There is a long tradition around the Royal Prerogative, which is part of the British parliamentary system. I believe what happened in that committee violated that. I do not believe that that committee is the place to sort that out. I believe that this motion should be considered in the Rules Committee, and I would hope that we could invite Senator Cools to give some advice on the Royal Prerogative in a way that would be constructive to that debate and process.

For those reasons, I support the motion advanced by Senator Tkachuk.

On motion of Senator Segal, for Senator Tardif, debate adjourned.



• (1700)

## STUDY ON ISSUES RELATED TO NATIONAL AND INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

### REPORT OF HUMAN RIGHTS COMMITTEE ADOPTED

Leave having been given to revert to Other Business, Reports of Committees, Item No. 3:

The Senate proceeded to consideration of the twelfth report of the Standing Senate Committee on Human Rights, entitled: *Canada and the United Nations Human Rights Council: At the Crossroads*, tabled in the Senate on May 10, 2007.—(Honourable Senator Andreychuk)

**Hon. A. Raynell Andreychuk:** Honourable senators, I move:

That the twelfth report of the Standing Senate Committee on Human Rights, entitled: *Canada and the United Nations Human Rights Council: At the Crossroads* be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the Government, with the Minister of Foreign Affairs being identified as the Minister responsible for responding to the report.

Honourable senators, I wanted to note that this is the study of the Standing Senate Committee on Human Rights with respect to the Human Rights Council, with an ongoing mandate to examine issues relating to human rights and to review the machinery of government dealing with Canada's international and national human rights obligations.

The Standing Senate Committee on Human Rights took interest in the June 2006 launch of the United Nations Human Rights Council and took up a study of the issue earlier this year. *Canada and the United Nations Human Rights Council: At the Crossroads*, released earlier this month, is the committee's publication of that study's preliminary findings.

While continuing to monitor the issue, the committee sought to release its preliminary report before the first anniversary of the council passed in order to equip the Government of Canada with recommendations that may help it to build a more effective Human Rights Council into the future. We are under a time restraint, as the Human Rights Council will be meeting to deal with its procedures in June, and we thought that our report would be of timely benefit to the Canadian government and to all those who follow the Human Rights Council.

To put the United Nations Human Rights Council into context, it is important to understand the history of its predecessor, the United Nations Commission on Human Rights. The commission first met in 1947, and was established to examine, monitor and report on human rights issues in countries around the world.

Over the next 60 years, the commission had an enormous, positive impact on the international human rights landscape, representing the world's pre-eminent human rights body and drafting a number of influential international human rights conventions. It brought many human rights violations to the

world's attention that might have otherwise gone unnoticed, and often managed to generate international consensus with respect to an individual country's human rights reputation.

Yet, despite these human rights advances, observers agreed that by 2005, the UN Commission on Human Rights had been largely discredited as being politicized and ineffective. The body was frequently and harshly criticized with respect to its credibility deficit.

Many concerns with respect to the commission stemmed from the fact that many of the world's worst human rights abusers served as members. Once on the commission, such members frequently protected other human rights abusers from scrutiny, and escaped scrutiny themselves, by using their power and vote on the commission rather than ensuring the human rights concerns received consistent and thorough attention.

As a result of such comments and other serious criticism of the UN system, in March 2005, Kofi Annan, then Secretary-General of the United Nations, launched a blueprint for United Nations reform, in which he announced the creation of a body to replace the UN Commission on Human Rights by the United Nations Human Rights Council.

On March 15, 2006, the United Nations General Assembly voted 170-4 to create this new council. Among the key features of the new council were that the council was reduced to 47 members from 53 members in the commission. It was also designed to prevent members of the council from using their membership as a shield from censure. Based on a two-thirds majority vote, the General Assembly can suspend the membership rights of any member that commits gross and systemic violations of human rights.

Members of the UN Human Rights Council must pledge to uphold high standards with respect to the promotion and protection of human rights. The council must undertake a universal periodic review of all United Nations member states' human rights records. The universal review will also allow the council to move away from the selective scrutiny of which the commission was accused.

Despite the promise of a better day under the new UN Human Rights Council, a quick analysis of voting patterns and commentary at the council reveals that it has become a proxy for large international geo-strategic conflicts. Our committee found that the council is essentially divided, pitting the Organization of the Islamic Conference, the Arab League and the non-aligned movement against Canada, the European Union and a small number of other relatively consistent allies.

Observers have expressed particular concern that this concentration of membership has allowed one bloc of countries to use its concerted power to cause special sessions targeting the alleged human rights violations of its adversaries, while other human rights violations are being ignored. Three of the four special sessions called so far have focused on human rights violations committed by Israel and only one on the situation in Darfur. Ultimately, the politics that marred the UN Commission on Human Rights has shown no sign of abating, and may be increasing.

Nearly all witnesses appearing before the committee expressed disappointment, mixed with cautious hope, about the future. The overwhelming comment received by the committee with respect to overall impressions of the first year in the life of the United Nations Human Rights Council is that it is too early to tell whether it will work. Ultimately, the UN Human Rights Council is nowhere near being finished. The institution-building process must continue.

The body spent its first year getting its procedures in order. Unfortunately, this overlap between institution building, human rights protection and reacting to human rights emergencies made the first year particularly difficult for the council.

In this preliminary study of the UN Human Rights Council, our committee came to a number of conclusions as to how the Canadian government can most effectively bring its influence to bear in the maintenance of a viable and sustainable council in the future. Needless to say, the committee is concerned that bloc politics are playing a significant and detrimental role on the council. Canada needs to find a way to effectively manage its role to ensure that it does not lose its voice and influence on the council, as well as to ensure that human rights are not lost to politics and positioning on a broader scale.

Government officials noted that Canada is missing many of its natural allies on the council, such as Australia, New Zealand and the United States. In order to work with the bloc politics on the council, rather than being outmanoeuvred by them, Canada needs to learn to deal with countries with which it does not have a tradition of allying and forming cross-regional alliances.

As such, our committee emphasizes that the Canadian government needs to work to enhance credibility and leadership in its role as a member of the UN Human Rights Council. While we laud Canada in exercising this role, we believe that more can be done.

Although Canada is already a very active member of the council, the government needs to re-examine its role and more effectively assert the influence that it can have in terms of shaping the politics and the direction of the council. The committee strongly believes that Canada can play an important bridge-building role that may ease the bloc politics on the council and facilitate the effective functioning of the council in the future.

In order to achieve this goal, the committee recommends that the Canadian government put into place a Canadian ambassador for human rights. Such an ambassador could ensure that Canada has the capacity to undertake elevated diplomatic initiatives and fully evolve into its bridge-builder role on the council.

The ambassador could initially play the role of a focal point within the Canadian government to concentrate on human rights as part of Canadian foreign policy. Models for a successful ambassador for human rights are already present in France, Spain, the Netherlands and Sweden and, I might add, that Canada had that role in the past. Ultimately, a Canadian human rights ambassador would significantly enhance Canada's role and capacity at the council, raise the profile and standing of human rights as a foreign policy issue in Canada and re-focus Canada on the necessity of implementing its international human rights obligations in domestic law.

• (1710)

The committee's primary recommendations with respect to the council itself emphasize that the Canadian delegation bring focus to bear on the development and implementation of the council's procedures, mechanisms and rules by focusing its efforts on the work of the six working groups, which will meet in June, that are currently in negotiations to establish the entire framework for the future council. The council's working groups on implementation of the Universal Periodic Review and Special Procedures are a crucial part of the institution-building process. Our committee encourages the Canadian government to work toward ensuring that these mechanisms become powerful, credible and effective features of the Human Rights Council that are accompanied by effective follow-up and implementation. Our committee also recommends that the Government of Canada press the Human Rights Council to establish an accountability mechanism to ensure that fact-finding missions created by the council receive full support from council members in terms of both fulfillment of mission mandates and follow-up to mission recommendations. Regrettably, that accountability mechanism was the weakness of the Darfur resolution.

Ultimately, our committee wishes to issue a reminder that the Canadian government has an important role to play as a member of the Human Rights Council, particularly during these politically contentious times. There are ways to ensure that politics do not run away with the council — it is too early to tell how the council is working but certainly not too late to fix what has already gone wrong. By taking our committee's recommendations seriously and learning to work with the politics at play rather than throwing up our hands in dismay, Canada can have a serious influence on the evolution of human rights protections through the council. The international community has an opportunity to make the Human Rights Council work. To help this happen, Canada must take the initiative to remind the international community of the council's fundamental purpose and goals — the protection of international human rights for all citizens.

**Hon. Joan Fraser:** Honourable senators, Senator Andreychuk has given a full description of the Human Rights Council and of our committee's report. I would like to add my support for it. This study was the first full study that I had participated in since returning to the Standing Senate Committee on Human Rights. It was a great way to begin. Unfortunately, this report is only an interim one, so we will continue. Unless another senator urgently wishes to speak, I strongly suggest that the Senate adopt this report today because the meetings next week are truly important. If honourable senators lend their collective voice to strengthening the government position, it would be a good thing.

**The Hon. the Speaker pro tempore:** Honourable senators, the motion also includes a request for a government response. Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

#### POINT OF ORDER

**Hon. Eymard G. Corbin:** Honourable senators, I rise on a point of order. Things have moved rapidly. When the Speaker *pro tempore* put the motion to the house, she said it would also include the minister's response. It seems that the *Rules of the Senate* require a separate motion for that kind of initiative. Am



I right or am I wrong? If I may pursue my point, it is one thing to adopt a report but it is another thing to request a ministerial response. I believe that the *Rules of the Senate* have been drafted in such a way that a separate motion is required, and that is debateable.

**The Hon. the Speaker pro tempore:** Do honourable senators agree to revert to the motion by Senator Andreychuk?

**Hon. Senators:** Agreed.

**The Hon. the Speaker pro tempore:** It was moved by Senator Andreychuk, seconded by Senator Keon, that the twelfth report of the Standing Senate Committee on Human Rights, entitled: Canada and the United Nations Human Rights Council: At the Crossroads, be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the Government, with the Minister of Foreign Affairs being identified as the Minister responsible for responding to the report.

Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Anne C. Cools:** No.

**Senator Corbin:** Honourable senators, it is one thing to accept the fact, as explained by Senator Fraser, that there might be some urgency to adopt the report today but I see no urgency to bypass the requirement of the *Rules of the Senate* that a specific motion be made to this house for a ministerial response to a report, which is debatable. I might be wrong but I believe it is the duty of any Senator to raise these matters to ascertain whether procedure is in good order, and is proper and timely.

**Senator Cools:** I was not paying sufficient attention to the debate but a motion to adopt a report should not be appended to motions for other things. It is one distinct proposition to adopt a report. If something else is required, a different motion is required to articulate the request. In addition, it should be done with notice. We seem to have problems remembering that most motions require notice and cannot simply be tagged to an item. If the honourable senator could tag one she could tag a thousand others.

**Hon. A. Raynell Andreychuk:** Honourable senators, I shall respond. I have a new clerk. Between her efforts and mine, we twice asked how this should be done. Originally when I came to this chamber, reports were tabled or adopted. Then, Senate committees requested ministers' responses to reports and Senate procedures are not the same as those of the other place. I checked twice. I have absolutely no objections to stopping at adoption of the report and seeking further advice from the table in respect of a motion to request the minister's response to the report. I hope that we could put the house in order because going back twice will delay it for one week and perhaps the outcome will be the same as what I have done, which I deem to be appropriate. With respect, if it is not appropriate, I hope that it is clarified for the sake of all honourable senators.

**The Hon. the Speaker pro tempore:** Honourable senators, I will read from the *Rules of the Senate*:

131(2) The Senate may request that the Government provide a complete and detailed response to a report of a select Committee, which has been adopted by the Senate if

either the report or the motion adopting the report contains such a request, or if a motion to that effect is adopted subsequent to the adoption of the report.

• (1720)

**Hon. Sharon Carstairs:** The problem we have before us is that the original motion made by Senator Andreychuk did not make reference to a referral, so it did not access rule 131, as my understanding is of this situation. If that is the case, perhaps we could give leave for such a notice of motion today so it would not have to be delayed past next Tuesday. We could then move with dispatch on that, if that is the problem. If it is not a problem, if, in fact, it was part of the original motion, then we should be able to move today. My understanding, however, was that it was not part of the original motion.

**Hon. Joan Fraser:** Honourable senators, I believe it is true that a referral was not part of the original motion. As I understand it, Senator Andreychuk has expressed her willingness to split, retroactively, her motion and the Senate can give leave, I believe, for that to be done. I would suggest that that would be a neat way to proceed. I think this has been instructive for all of us. I think the rule does permit going either way, however, it is always desirable to have clarity in affairs of the Senate. I would agree with Senator Corbin on that. I would certainly support splitting the motion if the Senate would give leave to do that.

[Translation]

**Hon. Pierre Claude Nolin:** Honourable senators, Her Honour's reading of rule 131(2) was suitable. I do not believe it is necessary to wait. The chamber can make its ruling.

If the report or the motion adopting the report contains such a request — and it is not specified that this request be in the original motion or added later — it can be adopted by the Senate; this does not require a specific notice.

Madam Speaker, you were right to draw our attention to this rule, of which I was unaware.

**The Hon. the Speaker pro tempore:** Honourable senators, Senator Fraser suggested that Senator Andreychuk would agree to split her motion in two until we clarify rule 131(2).

[English]

Senator Fraser asks for leave or permission from this chamber to accept that Senator Andreychuk will split her motion.

Senator Andreychuk, will you accept to split your motion today and then we will have clarification on how to proceed further on in order to ensure that rule 131(2) is clear to everyone?

Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

**Senator Andreychuk:** I agree to split the motion and I will move the referral of the report later. I would prefer to have a clarification so that we are all saying the same thing. I will go back a third time for clarification.

**The Hon. the Speaker pro tempore:** It is moved by Senator Andreychuk, seconded by Senator Keon, that the 12th report of the Standing Senate Committee on Human Rights, entitled *Canada and the United Nations Human Rights Council: At the Crossroads*, be adopted now.

Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

**Senator Carstairs:** Honourable senators, perhaps we would allow Senator Andreychuk to revert to motions and she could give notice of a motion that two days hence she will move that this report of the Standing Senate Committee on Human Rights be referred to the government.

Motion agreed to and report adopted.

#### NOTICE OF MOTION TO REQUEST GOVERNMENT RESPONSE

Leave having been given to revert to Notices of Motion:

**Hon. A. Raynell Andreychuk:** Honourable senators, I give notice that at the next sitting of the Senate, I will move:

That pursuant to rule 131(2), the Senate request a complete and detailed response from the Government, with the Minister of Foreign Affairs being identified as the Minister responsible for responding to the twelfth report of the Standing Senate Committee on Human Rights, entitled: *Canada and the United Nations Human Rights Council: At the Crossroads*.

#### CANADA'S COMMITMENT TO DARFUR, SUDAN

##### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Dallaire calling the attention of the Senate to the situation in the Darfur region of Sudan and the importance of Canada's commitment to the people of this war-torn country.—(*Honourable Senator Andreychuk*)

**Hon. Donald H. Oliver:** Honourable senators, I intended to speak today, but as it is Thursday afternoon I will just say that I would like to have an opportunity to speak to this inquiry next Tuesday.

On motion of Senator Oliver, debate adjourned.

#### INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

##### MOTION TO AUTHORIZE COMMITTEE TO STUDY PERMISSIBILITY OF SENATORS' STAFF INQUIRING INTO THE TRAVELLING DETAILS OF OTHER SENATORS—MOTION IN AMENDMENT— MOTION WITHDRAWN

On the Order:

Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Moore:

That the Standing Committee on Internal Economy, Budgets and Administration be directed to examine and determine, in light of recent discussions and in light of present Rules, procedures, practices and conventions of the Senate, whether it is appropriate or permissible that persons working in the offices of senators, including senators who are Ministers of the Crown, should obtain or attempt to obtain from hotels used by senators conducting business properly authorized by the Senate, detailed breakdowns including lunches or other costs included in hotel invoices, and including any and all sundry costs associated with the stay; and

That the Committee be directed to report its determination to the Senate no later than Thursday, December 7, 2006;

And on the motion in amendment of the Honourable Senator Comeau, seconded by the Honourable Senator Stratton, that the motion be amended by deleting the word "and" at the end of the first paragraph and by adding the following paragraph immediately thereafter:

"That the Committee be directed to take into consideration whether it would be appropriate or permissible for persons working in the offices of Senators to obtain from hotels replacement receipts for the Senator in whose office they work should the originals be misplaced or be otherwise unavailable; and".—(*Honourable Senator Day*)

**Hon. Tommy Banks:** Honourable senators, I think events have overtaken this motion. It has been ruled upon and it is done. I suggest we might remove it from the Order Paper.

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to withdraw the motion?

Motion withdrawn.

#### THE SENATE

##### GENDER EQUALITY—INQUIRY— DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Mercer calling the attention of the Senate to gender equality in the process of governance, specifically how we, as



Senators in the Senate of Canada, can be a model for gender equality by requiring that the number of Senators in this place be composed of 50 per cent women and 50 per cent men.—(*Honourable Senator Carstairs, P.C.*)

**Hon. Sharon Carstairs:** Honourable senators, let me begin by thanking Senator Mercer for this inquiry and Senator Prud'homme for having raised this issue on many occasions on the floor of this chamber.

I also want to speak of a major breakthrough as a result of the Manitoba election on May 22, 2007. This election resulted in two significant milestones. For the first time in Canada, 31.5 per cent of the elected representatives in a provincial legislature are now women. I anticipate this will result in a change of tone and the topics of debate in the Manitoba legislature. Both, in my view, are good things.

In addition, the first woman of colour, Flor Marcelino, a member of the Filipino community, was elected in the constituency of Wellington. She will join men, both present and in the past, who have represented Aboriginals and men of colour who have served in the Manitoba legislature: Oscar Laithan, Elijah Harper, Bidhu Jha, and Gulzar Cheema, to mention just a few.

As Senator Mercer has noted in his speech, Canada has an opportunity by 2009 to achieve gender parity in a legislative chamber and to send a signal to this country and to the world that Canada believes in gender parity and we can do this by appointing women in numbers that will bring this place to 50 per cent parity of men and women by 2009.

As deputy leader and then as Leader of the Government, it was interesting to watch how the change in representation of women in this chamber changed the dynamics of the committee structure. In 1997, as deputy leader, I could not help but observe that the most popular committees on which Liberal senators wished to sit were Banking and Foreign Affairs. By 2003, the most popular committee had become Social Affairs, Science and Technology, because this was the committee the majority of women wanted to sit on. It is no accident that women dominate this committee in numbers even today. Women in significant numbers wanted to study the issues of mental health, literacy, child care, autism, population health and the health of our cities. In many ways, women have changed the agenda of this place in terms of the inquiries and motions placed before us. This is not to say that the other committees are not equally important or that women do not choose to participate in them. It means that there is greater balance in the issues before this place, a balance that reflects the issues of concern to all Canadians, 52 per cent of whom are women.

The reality is that, by virtue of appointment, the Senate has 32 women representing 34.4 per cent of this chamber. Regrettably, the House of Commons now has less than 22 per cent, and I do not see this changing in any significant way in the near future despite the efforts of political parties, in particular, the Liberals, NDP and the Bloc, to encourage more women to participate.

The House of Commons, in my view, is, for many women, either a hostile or downright unfriendly environment. Their insistence on a five-day-a-week session denying women and, yes,

men, the right to more opportunities to be home with their families is a part of this. Yes, they will work on Fridays in their home constituencies, but they will be home. They can have breakfast and perhaps dinner with spouses and their children and they can ensure the continuation of the familial bond.

• (1730)

As many honourable senators know, I started my political career as a provincial representative. My home, located in my constituency, was about 10 minutes by car from the legislature. If my horse-crazy daughter had an accident with her horse, and she tended to do this quite often, because if you put your hand in the mouth of a horse he is likely to chomp down and break your hand, it meant that I could get to the hospital myself and not hear about it on the phone. I was not three hours away by plane.

I never truly considered federal politics to be an option when the children were younger, and until John agreed that we could be in Ottawa together, I was reluctant to come to the Senate. I had watched my parents drift apart and establish separate lives, with dad here in Ottawa and mom in Halifax. I was not prepared to live a lifestyle like that. Yet, life is considerably easier in terms of family time in the Senate than in the House of Commons. We do not have the same demands to be physically in Ottawa, nor do we have the same demands by constituents.

Let me assure honourable senators and the public that this does not mean that I believe senators work less. What I have argued in the past and continue so to do is that the Senate has been given the luxury of time — the time to read and analyze legislation; the time to champion causes such as palliative care, family violence and human rights, which have been the issues that have dominated much of my work space; the time to contemplate and to view all sides of the issues of the day, time which I believe for many members of the House of Commons is not easily come by.

I urge this Prime Minister and any future prime minister to do two things. First, give serious attention to how the House of Commons could become a more family-friendly place, which would, in my view, attract more women to run and win political office; and, second, increase the representation in the Senate so that gender parity could become a reality in at least one of our chambers almost immediately and thereby set an example for the other place.

Let me leave the following two suggestions on the floor that I believe could enhance the work of all parliamentarians at little cost and yet make Parliament a more family-friendly place.

First, why could we not open four flexible spaces in the child care program on the Hill that would enable children of parliamentarians under five to visit the Hill for a week every so often, to have some special time with their parliamentary mom or dad, allowing the parliamentarian to do their job but to have breakfast, dinner and overnight with their child?

Second, why could we not employ two teachers on the Hill for those school age children, allowing them to go to school on the Hill for a week? They would not fall behind in school work and at the same time have some quality time with mom or dad and have a better understanding of what the work environment is for their parent.

Honourable senators, it is time for a four-day week in the House of Commons. Provincial parliaments have done it and, believe it or not, the sky has not fallen in. Let Parliament lead by example and make Parliament a family-friendly place. Is that not what we want for all of Canada?

**Hon. Marcel Prud'homme:** Honourable senators, I was going to make a few comments and then take the adjournment. I am in a position now where, if I speak, I cannot adjourn the debate in my name, since the honourable senator wants to adjourn.

First, I am glad that the Leader of the Government is here.

**Senator Comeau:** It is Thursday afternoon.

**Senator Prud'homme:** I know, but I am glad the Leader of the Government is here so I will not prolong the debate except to make a few comments. I wanted to ask questions of Senator Carstairs. I am thankful that she mentioned it. Yes, indeed, for years, we have had the option — the Prime Minister has the option, a famous phrase — to appoint 53 women and 52 men. It would be unique in the world.

Since the Leader of the Government is here, I will repeat again that she might put to the Prime Minister our proposal. There are 10 vacancies. As Senator Carstairs said, before the end of 2009 there would be the possibility to achieve that figure of 53. If I were to be the one who has to make the decision for 53-52, I would consider running for office somewhere else.

Having said that, I strongly believe in what the honourable senator just said. I believe in the motion of Senator Mercer. If I can bring to the government's attention — I know it is Thursday afternoon — I would like to pass a message on to Senator LeBreton, if she does not mind.

There are ways to reconcile the Prime Minister's view of not appointing unelected senators. I think he could make a national call and keep his right to appoint, but say, "Canadians, there are 10 vacancies. It is my intention to appoint only women until we reach parity of 53-52." That does not preclude us continuing our reflection as to how to amend the Senate, either elected, equality or otherwise. Politically, it would be an unbelievable gesture from the Prime Minister. After all, if one is in politics, one likes to do something popular. It would be immensely popular and it would achieve what Senator Carstairs has said.

I will finish by saying that I would not like to adjourn before I say that there have been 74 women appointed to the Senate. To show the evolution of Canada, I say to students that I have had the honour of having known 73 of them personally. That shows how far back I go, including to Senator Cairine Wilson, who was protecting my Liberal club at the University of Ottawa for 20 years.

I think the suggestion put forward in better terms than I by Senator Mercer and the debate by Senator Carstairs is worth continuing. I would like to keep the rest of my time, with your permission, by kindly thanking Senator Fraser to adjourn this motion in my name, hoping that my message will get through, and

even considering asking people who think alike to have a national press conference of seven or eight senators who are ready to take on the press, ready to take on those who do not believe in the Senate, because we must not be scared when it is a good cause. I would be more than honoured to be one of the six, seven or eight senators to hold a national press conference; others are better than I at organizing such an event, and then it will be popular.

For the actual government, I do not care who gets the benefit as long as we do it, and Canada again would be known around the world as an unbelievable place where at least one of the two chambers — because we still have the option — will have total parity.

I move the adjournment in my name.

**Hon. Tommy Banks:** Honourable senators, I am happy to have the adjournment but I want to speak by asking a question, and I will ask a question of Senator Prud'homme.

**The Hon. the Speaker *pro tempore*:** Are you asking a question of Senator Prud'homme?

• (1740)

**Senator Banks:** May I ask a question of the honourable senator?

**Senator Prud'homme:** I believe I have used all my time.

On motion of Senator Fraser, debate adjourned.

[Translation]

## STUDY ON OPERATION OF OFFICIAL LANGUAGES ACT AND RELEVANT REGULATIONS, DIRECTIVES AND REPORTS

### MOTION TO ADOPT REPORT OF OFFICIAL LANGUAGES COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE ADOPTED

**Hon. Maria Chaput,** pursuant to notice of May 29, 2007, moved:

That the eighth Report of the Standing Senate Committee on Official Languages entitled *Relocation of Head Offices of Federal Institutions: Respect for Language Rights*, tabled in the Senate on Thursday, May 17, 2007, be adopted; and

That, pursuant to rule 131(2), the Senate request a complete and detailed response from the Government, with the President of Treasury Board, the Ministers of Official Languages and of Industry being identified as Ministers responsible for responding to the report.

Motion agreed to.



### OFFICIAL LANGUAGES

#### COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF OPERATION OF OFFICIAL LANGUAGES ACT AND RELEVANT REGULATIONS, DIRECTIVES AND REPORTS

**Hon. Maria Chaput**, pursuant to notice of May 29, 2007, moved:

That notwithstanding the Order of the Senate adopted on Thursday, April 27, 2006, the Standing Senate Committee on Official Languages which was authorized to study and report from time to time on the application of the Official Languages Act and of the regulations and directives made under it, within those institutions subject to the Act, be empowered to extend the date of presenting its final report from June 30, 2007 to June 30, 2008.

Motion agreed to.

[English]

### ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

#### COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF MATTERS RELATING TO MANDATE

**Hon. Tommy Banks**, pursuant to notice of May 30, 2007, moved:

That notwithstanding the Order of the Senate adopted on April 26, 2006, the date for the presentation of the final report by the Standing Senate Committee on Energy, the Environment and Natural Resources to examine and report on emerging issues related to its mandate be extended from September 1, 2007, to September 1, 2008.

Motion agreed to.

### NATIONAL SECURITY AND DEFENCE

#### COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

**Hon. Colin Kenny**, pursuant to notice of May 30, 2007, moved:

That, pursuant to rule 95(3)(a), the Standing Senate Committee on National Security and Defence be authorized

to meet on Monday, June 11, 2007, even though the Senate may then be adjourned for a period exceeding one week.

Motion agreed to.

#### COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

**Hon. Colin Kenny**, pursuant to notice of May 30, 2007, moved:

That, pursuant to rule 95(3)(a), the Standing Senate Committee on National Security and Defence be authorized to meet on Monday, June 18, 2007, even though the Senate may then be adjourned for a period exceeding one week.

Motion agreed to.

[Translation]

### ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, June 5, 2007, at 2 p.m.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, June 5, 2007, at 2 p.m.

# THE SENATE OF CANADA

## PROGRESS OF LEGISLATION

(indicates the status of a bill by showing the date on which each stage has been completed)

### (1st Session, 39th Parliament)

Thursday, May 31, 2007

(\*Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Houses of Parliament have been notified of the declaration.)

### GOVERNMENT BILLS (SENATE)

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-2	An Act to amend the Hazardous Materials Information Review Act	06/04/25	06/05/04	Social Affairs, Science and Technology	06/05/18	0	06/05/30	07/03/29	7/07
S-3	An Act to amend the National Defence Act, the Criminal Code, the Sex Offender Information Registration Act and the Criminal Records Act	06/04/25	06/06/22	Legal and Constitutional Affairs	06/12/06	0 observations + 2 at 3rd	07/02/15	07/03/29	5/07
S-4	An Act to amend the Constitution Act, 1867 (Senate tenure)	06/05/30	07/02/20	(subject-matter 06/06/28 Special Committee on Senate Reform)  (bill 07/02/20 Legal and Constitutional Affairs)	(report on subject- matter 06/ 10/26)				
S-5	An Act to implement conventions and protocols concluded between Canada and Finland, Mexico and Korea for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	06/10/03	06/10/31	Banking, Trade and Commerce	06/11/09	0	06/11/23	06/12/12	8/06
S-6	An Act to amend the First Nations Land Management Act	07/04/25	07/05/15	Aboriginal Peoples	07/05/31	0	07/05/31		



**GOVERNMENT BILLS  
(HOUSE OF COMMONS)**

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-2	An Act providing for conflict of interest rules, restrictions on election financing and measures respecting administrative transparency, oversight and accountability	06/06/22	06/06/27	Legal and Constitutional Affairs	06/10/26	156 Observations + 3 at 3 <sup>rd</sup> (including 1 amend. to report) 06/11/09 Total 158	Message from Commons- agree with 52 amendments, disagree with 102, agree and disagree with 1, and amend 3 06/11/21	06/12/12	9/06
							Referred to committee 06/11/23		
							Report adopted 06/12/07		
							Message from Commons- agree with Senate amendments 06/12/11		
C-3	An Act respecting international bridges and tunnels and making a consequential amendment to another Act	06/06/22	06/10/24	Transport and Communications	06/12/12	3 observations	06/12/13	07/02/01*	1/07
C-4	An Act to amend the Canada Elections Act and the Income Tax Act	06/05/02	06/05/03	Legal and Constitutional Affairs	06/05/04	0	06/05/09	06/05/11	1/06
C-5	An Act respecting the establishment of the Public Health Agency of Canada and amending certain Acts	06/06/20	06/09/28	Social Affairs, Science and Technology	06/11/02	0 observations	06/11/03	06/12/12	5/06
C-8	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2007 ( <i>Appropriation Act No. 1, 2006-2007</i> )	06/05/04	06/05/09	—	—	—	06/05/10	06/05/11	2/06
C-9	An Act to amend the Criminal Code (conditional sentence of imprisonment)	06/11/06	07/02/27	Legal and Constitutional Affairs	07/05/03	0 observations	07/05/16	07/05/31*	12/07
C-10	An Act to amend the Criminal Code (minimum penalties for offences involving firearms) and to make a consequential amendment to another Act	07/05/30							

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-11	An Act to amend the Canada Transportation Act and the Railway Safety Act and to make consequential amendments to other Acts	07/03/01	07/03/28	Transport and Communications	07/05/17	2 Observations  Report amended 07/05/30	07/05/31		
C-12	An Act to provide for emergency management and to amend and repeal certain Acts	06/12/11	07/03/28	Special Committee on the Anti-terrorism Act					
C-13	An Act to implement certain provisions of the budget tabled in Parliament on May 2, 2006	06/06/06	06/06/13	National Finance	06/06/20	0	06/06/22	06/06/22*	4/06
C-15	An Act to amend the Agricultural Marketing Programs Act	06/06/06	06/06/13	Agriculture and Forestry	06/06/15	0	06/06/20	06/06/22*	3/06
C-16	An Act to amend the Canada Elections Act	06/11/06	06/11/23	Legal and Constitutional Affairs	07/02/15	0 + 1 at 3 <sup>rd</sup>	07/03/28 Message from Commons disagreeing with Senate with amendment 07/04/27  Senate does not insist on its amendment 07/05/01	07/05/03*	10/07
C-17	An Act to amend the Judges Act and certain other Acts in relation to courts	06/11/21	06/12/11	National Finance	06/12/12	0 observations	06/12/13	06/12/14*	11/06
C-18	An Act to amend certain Acts in relation to DNA identification	07/03/29	07/05/09	Legal and Constitutional Affairs					
C-19	An Act to amend the Criminal Code (street racing) and to make a consequential amendment to the Corrections and Conditional Release Act	06/11/02	06/11/21	Legal and Constitutional Affairs	06/12/14	0 observations	06/12/14	06/12/14*	14/06
C-22	An Act to amend the Criminal Code (age of protection) and to make consequential amendments to the Criminal Records Act	07/05/08							
C-24	An Act to impose a charge on the export of certain softwood lumber products to the United States and a charge on refunds of certain duty deposits paid to the United States, to authorize certain payments, to amend the Export and Import Permits Act and to amend other Acts as a consequence	06/12/06	06/12/12	National Finance (withdrawn) 06/12/13 Foreign Affairs and International Trade	06/12/14	0 observations	06/12/14	06/12/14*	13/06
C-25	An Act to amend the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and the Income Tax Act and to make a consequential amendment to another Act	06/11/21	06/11/28	Banking, Trade and Commerce	06/12/14	0 observations	06/12/14	06/12/14*	12/06



No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-26	An Act to amend the Criminal Code (criminal interest rate)	07/02/07	07/02/28	Banking, Trade and Commerce	07/04/19	0 observations	07/04/26	07/05/03*	9/07
C-28	A second Act to implement certain provisions of the budget tabled in Parliament on May 2, 2006	06/12/11	07/01/31	National Finance	07/02/13	0	07/02/14	07/02/21*	2/07
C-31	An Act to amend the Canada Elections Act and the Public Service Employment Act	07/02/21	07/03/21	Legal and Constitutional Affairs					
C-34	An Act to provide for jurisdiction over education on First Nation lands in British Columbia	06/12/06	06/12/11	Aboriginal Peoples	06/12/12	0	06/12/12	06/12/12	10/06
C-36	An Act to amend the Canada Pension Plan and the Old Age Security Act	07/03/20	07/04/17	Banking, Trade and Commerce	07/04/19	0	07/05/01	07/05/03*	11/07
C-37	An Act to amend the law governing financial institutions and to provide for related and consequential matters	07/02/28	07/03/21	Banking, Trade and Commerce	07/03/29	0	07/03/29	07/03/29	6/07
C-38	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007 ( <i>Appropriation Act No.2, 2006-2007</i> )	06/11/29	06/12/05	—	—	—	06/12/06	06/12/12	6/06
C-39	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007 ( <i>Appropriation Act No.3, 2006-2007</i> )	06/11/29	06/12/05	—	—	—	06/12/06	06/12/12	7/06
C-40	An Act to amend the Excise Tax Act, the Excise Act, 2001 and the Air Travellers Security Charge Act and to make related amendments to other Acts	07/05/15							
C-46	An Act to provide for the resumption and continuation of railway operations	07/04/18	07/04/18	Committee of the Whole	07/04/18	0	07/04/18	07/04/18*	8/07
C-48	An Act to amend the Criminal Code in order to implement the United Nations Convention against Corruption	07/05/01	07/05/10	Foreign Affairs and International Trade	07/05/17	0	07/05/29	07/05/31*	13/07
C-49	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007 ( <i>Appropriation Act No.4, 2006-2007</i> )	07/03/26	07/03/27	—	—	—	07/03/28	07/03/29	3/07
C-50	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2008 ( <i>Appropriation Act No.1, 2007-2008</i> )	07/03/26	07/03/27	—	—	—	07/03/28	07/03/29	4/07

## COMMONS PUBLIC BILLS

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-252	An Act to amend the Divorce Act (access for spouse who is terminally ill or in critical condition)	07/03/22	07/04/19	Social Affairs, Science and Technology	07/05/10	0	07/05/29	07/05/31*	14/07
C-277	An Act to amend the Criminal Code (luring a child)	07/03/29	07/05/10	Social Affairs, Science and Technology	07/05/31	0			
C-280	An Act to Amend the Immigration and Refugee Protection Act (coming into force of sections 110, 111 and 171)	07/05/30							
C-288	An Act to ensure Canada meets its global climate change obligations under the Kyoto Protocol	07/02/15	07/03/29	Energy, the Environment and Natural Resources	07/05/17	0			
C-292	An Act to implement the Kelowna Accord	07/03/22							
C-293	An Act respecting the provision of official development assistance abroad	07/03/29	07/05/29	Foreign Affairs and International Trade					
C-294	An Act to amend the Income Tax Act (sports and recreation programs)	07/04/17	07/05/02	National Finance					
C-299	An Act to amend the Criminal Code (identification information obtained by fraud or false pretence)	07/05/09							

## SENATE PUBLIC BILLS

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-201	An Act to amend the Public Service Employment Act (elimination of bureaucratic patronage and geographic criteria in appointment processes) (Sen. Ringuette)	06/04/05	06/06/22	National Finance	06/10/03	1	07/05/10		
S-202	An Act to repeal legislation that has not come into force within ten years of receiving royal assent (Sen. Banks)	06/04/05	06/05/31	Legal and Constitutional Affairs	06/06/15	1	06/06/22		
S-203	An Act to amend the Public Service Employment Act (priority for appointment for veterans) (Sen. Downe)	06/04/05	Dropped from the Order Paper pursuant to Rule 27(3) 06/06/08						
S-204	An Act respecting a National Philanthropy Day (Sen. Grafstein)	06/04/05	07/05/29	Legal and Constitutional Affairs					
S-205	An Act to amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	06/04/05	06/10/31	Energy, the Environment and Natural Resources	07/02/14	0	07/04/25		
S-206	An Act to amend the Criminal Code (suicide bombings) (Sen. Grafstein)	06/04/05	06/10/31	Legal and Constitutional Affairs					
S-207	An Act to amend the Criminal Code (protection of children) (Sen. Herveux-Payette, P.C.)	06/04/05	06/12/14	Human Rights					



No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-208	An Act to require the Minister of the Environment to establish, in co-operation with the provinces, an agency with the power to identify and protect Canada's watersheds that will constitute sources of drinking water in the future (Sen. Grafstein)	06/04/06							
S-209	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	06/04/25	06/12/14	Energy, the Environment and Natural Resources	07/05/31	0			
S-210	An Act to amend the National Capital Act (establishment and protection of Gatineau Park) (Sen. Spivak)	06/04/25	06/12/13	Energy, the Environment and Natural Resources					
S-211	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	06/04/25	06/05/10	Social Affairs, Science and Technology	06/06/13	0	06/10/17		
S-212	An Act to amend the Income Tax Act (tax relief) (Sen. Austin, P.C.)	06/04/26	Bill withdrawn pursuant to Speaker's Ruling 06/05/11						
S-213	An Act to amend the Criminal Code (cruelty to animals) (Sen. Bryden)	06/04/26	06/09/26	Legal and Constitutional Affairs	06/12/06	1	06/12/07		
S-214	An Act respecting a National Blood Donor Week (Sen. Mercer)	06/05/17	06/10/03	Social Affairs, Science and Technology	06/12/14	0	06/12/14		
S-215	An Act to amend the Income Tax Act in order to provide tax relief (Sen. Austin, P.C.)	06/05/17	07/02/20	National Finance					
S-216	An Act providing for the Crown's recognition of self-governing First Nations of Canada (Sen. St. Germain, P.C.)	06/05/30	06/12/13	Aboriginal Peoples					
S-217	An Act to amend the Financial Administration Act and the Bank of Canada Act (quarterly financial reports) (Sen. Segal)	06/05/30	06/10/18	National Finance					
S-218	An Act to amend the State Immunity Act and the Criminal Code (civil remedies for victims of terrorism) (Sen. Tkachuk)	06/06/15	06/11/02	Legal and Constitutional Affairs					
S-219	An Act to amend the Parliamentary Employment and Staff Relations Act (Sen. Joyal, P.C.)	06/06/27	07/05/31	Rules, Procedures and the Rights of Parliament					
S-220	An Act to protect heritage lighthouses (Sen. Carney, P.C.)	06/10/03	06/11/28	Fisheries and Oceans	06/12/11	16	06/12/14		
S-221	An Act to establish and maintain a national registry of medical devices (Sen. Harb)	06/11/01							
S-222	An Act to amend the Immigration and Refugee Protection Act and to enact certain other measures, in order to provide assistance and protection to victims of human trafficking (Sen. Phalen)	07/02/01							
S-223	An Act to amend the Access to Information Act (Sen. Milne)	07/02/15							

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-224	An Act to amend the Access to Information Act and the Canadian Wheat Board Act (Sen. Mitchell)	07/04/17							
S-225	An Act to amend the International Boundary Waters Treaty Act (bulk water removal) (Sen. Carney, P.C.)	07/05/09							
S-226	An Act to regulate securities and to provide for a single securities commission for Canada (Sen. Grafstein)	07/05/29							
S-227	An Act to amend the Bankruptcy and Insolvency Act (student loans) (Sen. Goldstein)	07/05/29							
S-228	An Act to amend the Non-smokers' Health Act (Sen. Harb)	07/05/30							

## PRIVATE BILLS

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-1001	An Act respecting Scouts Canada (Sen. Di Nino)	06/06/27	06/10/26	Legal and Constitutional Affairs	06/12/06	0	06/12/07	07/02/21*	



## CONTENTS

Thursday, May 31, 2007

	PAGE
<b>Royal Assent</b>	
The Hon. the Speaker . . . . .	2467

### SENATORS' STATEMENTS

<b>Prince Edward Island</b>	
Charlottetown—Business Hall of Fame Induction Ceremony.	
Hon. Catherine S. Callbeck . . . . .	2467
<b>The Honourable Noël A. Kinsella</b>	
Congratulations on Receiving Doctor of Laws Degree.	
Hon. David Tkachuk . . . . .	2467
<b>Apology</b>	
Hon. Anne C. Cools . . . . .	2468
Hon. Gerald J. Comeau . . . . .	2468
<b>Prince Edward Island</b>	
Congratulations on Election of Liberal Government.	
Hon. Elizabeth Hubley . . . . .	2468
<b>Racial Profiling by Police Forces</b>	
Hon. Donald H. Oliver . . . . .	2468
<b>Visitors in the Gallery</b>	
The Hon. the Speaker . . . . .	2469

### ROUTINE PROCEEDINGS

<b>Criminal Code (Bill C-277)</b>	
Bill to Amend—Report of Committee.	
Hon. Wilbert J. Keon . . . . .	2469
<b>Personal Watercraft Bill (Bill S-209)</b>	
Report of Committee.	
Hon. Tommy Banks . . . . .	2469
<b>First Nations Land Management Act (Bill S-6)</b>	
Bill to Amend—Report of Committee.	
Hon. Gerry St. Germain . . . . .	2470
<b>Study on Evacuation of Canadian Citizens from Lebanon</b>	
Report of Foreign Affairs and International Trade Committee Tabled.	
Hon. Consiglio Di Nino . . . . .	2470
<b>Study on Recent Reports and Action Plan Concerning Drinking Water in First Nations' Communities</b>	
Report of Aboriginal Peoples Committee Tabled.	
Hon. Gerry St. Germain . . . . .	2470
<b>Internal Economy, Budgets and Administration</b>	
Seventeenth Report of Committee Presented.	
Hon. George J. Furey . . . . .	2470
<b>National Security and Defence</b>	
Notice of Motion to Authorize Committee to Extend Date of Final Report on Study of Veterans' Services and Benefits, Commemorative Activities and Charter.	
Hon. Joseph A. Day . . . . .	2470

### QUESTION PERIOD

<b>Heritage</b>	
Support for the Arts—Funding for Summer Festivals.	
Hon. Claudette Tardif . . . . .	2471
Hon. Marjory LeBreton . . . . .	2471
Hon. Francis Fox . . . . .	2471
Hon. Dennis Dawson . . . . .	2472
<b>Public Works and Government Services</b>	
Strategy for Moving Government Operations Out of Large Urban Areas.	
Hon. Hugh Segal . . . . .	2472
Hon. Michael Fortier . . . . .	2473
Gatineau, Quebec—New Government Buildings—Environmental Standards.	
Hon. Mira Spivak . . . . .	2473
Hon. Michael Fortier . . . . .	2473
Strategy for Moving Government Operations Out of Large Urban Areas.	
Hon. Percy Downe . . . . .	2473
Hon. Michael Fortier . . . . .	2473
<b>The Environment</b>	
Kyoto Protocol—Impact of Liberal Party of Canada Plan.	
Hon. David Tkachuk . . . . .	2473
Hon. Marjory LeBreton . . . . .	2474
<b>The Senate</b>	
Enhancement of Security—Comments by the Honourable Terry Stratton.	
Hon. Roméo Antonius Dallaire . . . . .	2474
Hon. Marjory LeBreton . . . . .	2474
Position of Institution vis à vis Prime Ministers Office and House of Commons.	
Hon. Roméo Antonius Dallaire . . . . .	2474
Hon. Marjory LeBreton . . . . .	2474
<b>Public Works and Government Services</b>	
Review of Government Polling—Appointment of Daniel Paillé.	
Hon. Sharon Carstairs . . . . .	2475
Hon. Michael Fortier . . . . .	2475
Posting of Ipsos-Reid Poll Entitled “Exploring the Views of Canada’s Multicultural Communities”.	
Hon. Sharon Carstairs . . . . .	2475
Hon. Michael Fortier . . . . .	2475
<b>Answers to Order Paper Question Tabled</b>	
Health—Pest Management Regulatory Agency.	
Hon. Gerald J. Comeau . . . . .	2475
<b>Business of the Senate</b>	
Hon. Gerry St. Germain . . . . .	2475
<b>ORDERS OF THE DAY</b>	
<b>Canada Transportation Act</b>	
<b>Railway Safety Act (Bill C-11)</b>	
Bill to Amend—Third Reading.	
Hon. Hugh Segal . . . . .	2476
<b>First Nations Land Management Act (Bill S-6)</b>	
Bill to Amend—Third Reading.	
Hon. Gerry St. Germain . . . . .	2476
Hon. Tommy Banks . . . . .	2477

	PAGE
<b>Criminal Code (Bill C-22)</b>	
Bill to Amend—Second Reading—Debate Continued.	
Hon. Catherine S. Callbeck . . . . .	2478
Hon. Sharon Carstairs . . . . .	2479
<b>Constitution Act, 1867 (Bill S-4)</b>	
Bill to Amend—Report of Special Committee on Subject Matter—Debate Continued.	
Hon. Gerald J. Comeau . . . . .	2480
Point of Order.	
Hon. Anne C. Cools . . . . .	2480
Hon. Joan Fraser . . . . .	2482
Hon. Gerald J. Comeau . . . . .	2482
<b>Parliamentary Employment and Staff Relations Act (Bill S-219)</b>	
Bill to Amend—Second Reading.	
Hon. A. Raynell Andreychuk . . . . .	2483
Referred to Committee . . . . .	2483
<b>Bankruptcy and Insolvency Act (Bill S-227)</b>	
Bill to Amend—Second Reading—Debate Adjourned.	
Hon. Yoine Goldstein . . . . .	2483
Hon. Lowell Murray . . . . .	2486
<b>Kyoto Protocol Implementation Bill (Bill C-288)</b>	
Report of Committee—Debate Continued.	
Hon. David Tkachuk . . . . .	2487
Motion in Amendment.	
Hon. David Tkachuk . . . . .	2490
Hon. Grant Mitchell . . . . .	2491
<b>Kelowna Accord Implementation Bill (Bill C-292)</b>	
Second Reading—Debate Continued.	
Hon. Terry Stratton . . . . .	2494
<b>Constitution Act, 1867</b>	
Report of Special Committee on Motion to Amend— Motion in Amendment—Debate Continued.	
Hon. Joan Fraser . . . . .	2494
<b>Study on Rural Poverty</b>	
Interim Report of Agriculture and Forestry Committee— Debate Continued.	
Hon. Robert W. Peterson . . . . .	2495
<b>Question of Privilege</b>	
Motion to Refer to Standing Committee on Rules, Procedures and the Rights of Parliament—Debate Continued.	
Hon. Hugh Segal . . . . .	2495
<b>Study on Issues Related to National and International Human Rights Obligations</b>	
Report of Human Rights Committee Adopted.	
Hon. A. Raynell Andreychuk . . . . .	2496
Hon. Joan Fraser . . . . .	2497

	PAGE
Point of Order.	
Hon. Eymard G. Corbin . . . . .	2497
Hon. Anne C. Cools . . . . .	2498
Hon. A. Raynell Andreychuk . . . . .	2498
Hon. Sharon Carstairs . . . . .	2498
Hon. Joan Fraser . . . . .	2498
Hon. Pierre Claude Nolin . . . . .	2498
Notice of Motion to Request Government Response.	
Hon. A. Raynell Andreychuk . . . . .	2499
<b>Canada's Commitment to Darfur, Sudan</b>	
Inquiry—Debate Continued.	
Hon. Donald H. Oliver . . . . .	2499
<b>Internal Economy, Budgets and Administration</b>	
Motion to Authorize Committee to Study Permissibility of Senators' Staff Inquiring into the Travelling Details of Other Senators—Motion in Amendment—Motion Withdrawn.	
Hon. Tommy Banks . . . . .	2499
<b>The Senate</b>	
Gender Equality—Inquiry—Debate Continued.	
Hon. Sharon Carstairs . . . . .	2500
Hon. Marcel Prud'homme . . . . .	2501
Hon. Tommy Banks . . . . .	2501
<b>Study on Operation of Official Languages Act and Relevant Regulations, Directives and Reports</b>	
Motion to Adopt Report of Official Languages Committee and Request for Government Response Adopted.	
Hon. Maria Chaput . . . . .	2501
<b>Official Languages</b>	
Committee Authorized to Extend Date of Final Report on Study of Operation of Official Languages Act and Relevant Regulations, Directives and Reports.	
Hon. Maria Chaput . . . . .	2502
<b>Energy, the Environment and Natural Resources</b>	
Committee Authorized to Extend Date of Final Report on Study of Matters Relating to Mandate.	
Hon. Tommy Banks . . . . .	2502
<b>National Security and Defence</b>	
Committee Authorized to Meet During Adjournment of the Senate.	
Hon. Colin Kenny . . . . .	2502
Committee Authorized to Meet During Adjournment of the Senate.	
Hon. Colin Kenny . . . . .	2502
<b>Adjournment</b>	
Hon. Gerald J. Comeau . . . . .	2502
<b>Progress of Legislation . . . . .</b>	<b>i</b>





*If undelivered, return COVER ONLY to:*  
Public Works and Government Services Canada  
Publishing and Depository Services  
Ottawa, Ontario K1A 0S5





CANADA

# Debates of the Senate

---

1st SESSION

•

39th PARLIAMENT

•

VOLUME 143

•

NUMBER 103

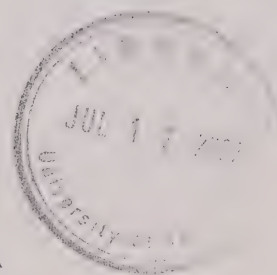
---

OFFICIAL REPORT  
(HANSARD)

**Tuesday, June 5, 2007**



THE HONOURABLE NOËL A. KINSELLA  
SPEAKER



This issue contains the latest listing of Senators, Officers of the Senate, the Ministry, and Senators serving on Standing, Special and Joint Committees.



## CONTENTS

(Daily index of proceedings appears at back of this issue).

---

*Debates and Publications:* Chambers Building, Room 943, Tel. 996-0193

Published by the Senate  
Available from PWGSC – Publishing and Depository Services, Ottawa, Ontario K1A 0S5.  
Also available on the Internet: <http://www.parl.gc.ca>

## THE SENATE

Tuesday, June 5, 2007

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

### THE LATE MASTER CORPORAL DARRELL JASON PRIEDE THE LATE CORPORAL CHRISTOPHER DELIVA

#### SILENT TRIBUTE

**The Hon. the Speaker:** Honourable senators, before we proceed, I would ask senators to rise and observe one minute of silence in memory of Master Corporal Darrell Jason Priede and Corporal Christopher Deliva.

*Honourable senators then stood in silent tribute.*

## SENATORS' STATEMENTS

### CHINA

#### EIGHTEENTH ANNIVERSARY OF TIANANMEN SQUARE MASSACRE

**Hon. Consiglio Di Nino:** Honourable senators, 18 years ago, on June 4, 1989, the events in Tiananmen Square shocked the world. The killing of hundreds of unarmed civilians, whose only crime was to gather at a peaceful protest, stands out as one of the worst examples of brutality inflicted by a government on its own citizens.

• (1405)

On the anniversary of this atrocity, I stand in solidarity with the thousands of Chinese people who participated in the Tiananmen Square demonstrations, and with the millions of citizens who continue to be denied their rights and freedoms for which their fellow countrymen perished.

According to Human Rights Watch, 143 participants involved in the demonstrations are still languishing in prison. To date, honourable senators, Beijing has failed to account for the massacre or even allow debate over it. Instead, it has engaged in the harassment of survivors, their families and those who dare challenge the official whitewash of the events of that fateful summer.

Given the remarkable economic transformation that has taken place in China, it would be easy to believe that all other things have changed as well. Unfortunately, this is not the case. While democracy has emerged in other Asian countries, freedom of expression, multi-party elections and the ability to dissent are no more tolerated today in China than they were in 1989. It is a troubling reality, a reality that demonstrates how the tools of capitalism can be used to perpetuate government oppression under the veil of economic progress and stability.

Honourable senators, 2008 will be an Olympic year for Beijing. If we really believe in the concept of international human rights, Canada and the rest of the world community should hold the Chinese government to their promise of improving human rights and freedoms. The sacrifice of so many in Tiananmen Square should not be one that was made in vain.

### LES GRANDS BALLETS CANADIENS DE MONTRÉAL

#### FIFTIETH ANNIVERSARY

**Hon. Yoine Goldstein:** Honourable senators, this year marks the fiftieth anniversary of Les Grands Ballets canadiens de Montréal, and today marks the retirement of Anik Bissonnette, a star among stars, a dancer described by the artistic director of the National Ballet of Canada, Karen Kain, as one of the most exquisite and accomplished dancers of all times.

Anik has become a cultural icon in Quebec, within and beyond dance circles. She has danced leading roles in all of the great classics and has worked with many of today's best choreographers. She has been awarded both the titles of Officer of the Order of Canada and Chevalier de l'Ordre du Québec.

[Translation]

For 18 years, Anik has been lighting up the stage with her legendary grace. Les Grands Ballets and Anik Bissonnette, individually and together, have continued to grow, flourish, and especially, to win over the hearts and minds of their audiences everywhere they have set foot on the stage.

[English]

In the past several years, Les Grands Ballets has expanded its repertoire through commissioned original works by young, up-and-coming choreographers to the delight of audiences throughout Canada, the United States and Europe. It is no exaggeration to say that this so-called "small town" ballet company has become a world-class cultural icon under the guidance of its outstanding artistic director, Gradimir Pankov.

Please join me, honourable senators, in congratulating Les Grands Ballets on achieving 50 successful years of bringing exciting, entertaining and enriching cultural performances to Quebec, Canada and many other countries throughout the world, and in wishing Anik Bissonnette well on her retirement and success in all her future endeavours, which we can all be assured will be stellar.

### AMYOTROPHIC LATERAL SCLEROSIS (ALS) AWARENESS MONTH

**Hon. Lowell Murray:** Honourable senators, a while ago, I was asked if I would draw your attention to the fact that June is ALS Awareness Month in Canada. ALS — amyotrophic lateral sclerosis — is also known as Lou Gehrig's disease, after the renowned New York Yankee baseball player who died of it.



I am honoured to have been asked to do this. Those of our fellow human beings — and there are several thousand of them in Canada — who are afflicted with this disease suffer uniquely. Not for them the balm of unawareness, of mental and physical capacities ebbing out together gradually and painlessly. With ALS, the mind and senses remain unimpaired, perhaps even more alert, while all physical autonomy is lost. The courage of these people in facing every day's existence is quite phenomenal; so too is that of their families and loved ones.

[Translation]

The ALS Society of Canada is a non-profit organization dependent on volunteers and devoted exclusively to fighting this disease. This society is dedicated to funding medical research and improving the quality of life of Canadians with ALS.

[English]

There is no effective treatment for ALS and no known cure. Approximately 80 per cent of people diagnosed with ALS die within two years.

[Translation]

Every year, the staff and volunteers of the ALS Society of Canada organize fundraising activities, such as the Walk for ALS, to create awareness about the disease and to raise money to fund research.

• (1410)

[English]

Let us salute the generosity and compassion of these volunteers and express our solidarity in every possible way with those whose cruel fate it is to be quite alive while dying of ALS.

[Translation]

#### CANADIAN SUMMIT OF FRANCOPHONE AND ACADIAN COMMUNITIES

**Hon. Maria Chaput:** Honourable senators, on June 1, 2 and 3, 2007, the University of Ottawa hosted the Summit of Francophone and Acadian Communities of Canada. I was very proud to participate in the summit and to spend time with this community, which is so close to my heart. The summit's theme was "Join forces and take action". This gathering provided an opportunity for all 760 participants to discuss priority issues, come up with solutions and take part in the final phase of a dialogue on their future that has been going on for two years.

At the end of the summit, Canada's francophone and Acadian leaders committed to turning that vision into action. I urge the government to acknowledge the intensive consultation that took place, to work with our leaders starting now, and to accept the shared goals and the priority issues they focused on during the Summit of Francophone and Acadian Communities.

Despite all this, in her speech Wednesday evening, the Minister of Official Languages said that this fall, she would undertake major consultations on the government's overall vision of official languages and linguistic duality in order to create a

roadmap. That would be discouraging and even insulting to all francophones and Acadians in Canada who have just completed this process.

I hope that the government in power will recognize the work done during this summit as the ultimate consultation initiative involving all francophone and Acadian stakeholders and that this new shared vision supported by all leaders will also receive the support of the government in power.

I would like to congratulate the Fédération des communautés francophones et acadiennes du Canada, the members of the steering committee and the resource people on this excellent initiative. I would also like to thank all of the volunteers who supported them.

[English]

#### UNDER-REPRESENTATION OF WOMEN IN UNIVERSITY FACULTY POSITIONS IN SCIENCE AND ENGINEERING

**Hon. Lillian Eva Dyck:** Honourable senators, the Royal Society of Canada held a conference entitled "Rooms of Their Own" in Edmonton, May 2-4. I had the honour of being one of the plenary speakers. My talk addressed the under-representation of women in university faculty positions in science and engineering.

With the large numbers of male faculty retiring now and in the next few years, it is important to ensure that women are given a fair chance in the hiring process at universities. I refer to the report of the National Academy of Sciences, *Beyond Bias and Barriers: Fulfilling the Potential of Women in Academic Science and Engineering*. I shall list three key findings from this report: First, women are very likely to face discrimination in every field of science and engineering; second, evaluation criteria contain arbitrary and subjective components that disadvantage women — women faculty on average are paid less, are promoted more slowly, receive fewer honours and hold fewer leadership positions than men — and third, although most scientists and engineers believe they are objective and intend to be fair, research shows that they, like most people, are biased in their evaluations.

In another report, leading brain researcher Baroness Greenfield found that many women in science were bullied. Honourable senators, that certainly was my experience. Like many, I was not sure how to cope with the bullying, but as I thought of my mother my inner strength and determination returned. My mother overcame blatant racism and survived residential school, so there was no way that I was going to let some man push me out of my job simply because I was a woman.

• (1415)

Honourable senators, women have a rightful place in society and in the university academy and ought to be accepted with respect and gender equality. We should be free to say and do what we want without feeling constrained by gender roles or rules, and without fear of being punished for daring to be the women we are meant to be. We are meant to be women who walk tall, walk proud, and walk strong.

Honourable senators, at the conference, I gave a PowerPoint presentation which had pictures of powerful Aboriginal women who are models of beauty and power. You will have to use your

[ Senator Murray ]

imaginings to visualize these two examples, which I will share with you today. My first example was Bear Woman, who has the medicine of healing and strength; and the second example was of our ancestral mothers and grandmothers who walked before us with the medicine of determination.

Honourable senators, women in science and engineering, and all women, should be respected and valued in their homes, their communities and in their workplaces so that they can walk tall, walk proud and walk strong.

## ROUTINE PROCEEDINGS

### CANADA ELECTIONS ACT PUBLIC SERVICE EMPLOYMENT ACT

#### BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Donald H. Oliver**, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Tuesday, June 5, 2007

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

#### TWELFTH REPORT

Your Committee, to which was referred Bill C-31, An Act to amend the Canada Elections Act and the Public Service Employment Act, has, in obedience to the Order of Reference of Wednesday, March 21, 2007, examined the said Bill and now reports the same with the following amendments:

1. *Title*: Delete the words:

“and the Public Service Employment Act”.

2. *Page 2, clause 5*: Delete from line 36 the words:

“date of birth”.

3. *Page 6, clause 13*:

(a) Delete on lines 14 and 15 the words:

“address and date of birth”; and

(b) Add on line 14, after the word “name” the words:

“and address”.

4. *Page 7, clause 18*: Replace line 35 with the following:

“does not indicate an elector’s sex or date of birth”.

5. *Page 13, clause 28*: Replace lines 11 to 16 of the French text with the following:

“(i.1) sur demande, et à intervalles minimaux de trente minutes, fournit aux représentants des candidats, sur le formulaire prescrit et selon les directives du directeur général des élections, l’identité des électeurs ayant exercé leur droit de vote le jour du scrutin à l’exclusion de celle des électeurs s’étant inscrit le jour même;

i.2) sur demande, après la fermeture du bureau de vote par anticipation, fournit aux représentants des candidats, sur le formulaire prescrit et selon les directives du directeur général des élections, l’identité des électeurs ayant exercé leur droit de vote ce jour-là, à l’exclusion de celle des électeurs s’étant inscrit le jour même;”.

6. *Page 13, clause 28*: Replace lines 12 to 17 with the following:

“(i.1) on request, and at intervals of no less than 30 minutes, provide to a candidate’s representative, on the prescribed form and as directed by the Chief Electoral Officer, the identity of every elector who has exercised his or her right to vote on polling day, excluding that of electors who registered on that day;

(i.2) on request, after the close of the advance polling station, provide to a candidate’s representative, on the prescribed form and as directed by the Chief Electoral Officer, the identity of every elector who has exercised his or her right to vote on that day excluding that of electors who registered on that day; and”.

7. *Delete clause 40*, page 16.

8. *Delete clause 41*, page 17.

9. *Page 17, clause 42*: Replace line 8 with the following:

“42. (1) Despite subsection 554(1) of the *Canada Elections Act*, sections 3, 6, 8 and 9, subsection”.

10. *Page 17, clause 42*: Replace line 9 with the following:

“10(2), sections 11, 12, 14 to 16, 20 to 27, 28 (f), (g) (h) and (i), 29 to 33 and”.

11. *Page 17, clause 42*: Replace line 23 with the following:

“17 to 19, 28 (i.1) and (i.2) and 34 come into force ten months”.

Respectfully submitted,

DONALD H. OLIVER  
Chair

**The Hon. the Speaker:** Honourable senators, when shall the report be taken into consideration?

On motion of Senator Oliver, report placed on the Orders of the Day for consideration at the next sitting of the Senate.



## EMERGENCY MANAGEMENT BILL

• (1420)

## REPORT OF COMMITTEE

**Hon. David P. Smith**, Chair of the Special Senate Committee on the Anti-terrorism Act, presented the following report:

Tuesday, June 5, 2007

The Special Senate Committee on the Anti-terrorism Act has the honour to present its

## FIFTH REPORT

Your Committee, to which was referred Bill C-12, An Act to provide for emergency management and to amend and repeal certain Acts, has, in obedience to the Order of Reference of Wednesday, March 28, 2007, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

DAVID P. SMITH  
*Chair*

**The Hon. the Speaker:** Honourable senators, when this shall bill be read the third time?

On motion of Senator Meighen, bill placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

## CITIZENSHIP ACT

## BILL TO AMEND—FIRST READING

The Speaker informed the Senate that a message had been received from the House of Commons with Bill C-14, to amend the Citizenship Act (adoption).

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Comeau, bill placed on the Orders of the Day for second reading two days hence.

[English]

## CRIMINAL CODE

## BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message has been received from the House of Commons with Bill C-35, to amend the Criminal Code (reverse onus in bail hearings for firearm-related offences).

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Comeau, bill place on the Orders of the Day for second reading two days hence.

CANADA-UNITED STATES  
INTER-PARLIAMENTARY GROUP

NATIONAL GOVERNORS ASSOCIATION WINTER MEETING, FEBRUARY 24-27, 2007—REPORT TABLED

**Hon. Jeremiah S. Grafstein:** Honourable senators, I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the National Governors Association Winter Meeting, Innovation America, Washington, D.C., February 24 to 27, 2007.

## THE SENATE

NOTICE OF MOTION FOR ADDRESS  
TO GOVERNOR GENERAL ON FILLING VACANT SEATS

**Hon. Anne C. Cools:** Honourable senators, pursuant to rule 57. (1)(b), I give notice that I shall move:

That the following address be presented to Her Excellency the Governor General of Canada:

To Her Excellency the Right Honourable Michaëlle Jean, Chancellor and Principal Companion of the Order of Canada, Chancellor and Commander of the Order of Military Merit, Governor General and Commander-in-Chief of Canada.

May it Please Your Excellency:

We, Her Majesty's most loyal and dutiful subjects, the Senate of Canada in Parliament assembled, beg leave humbly to represent to Her Excellency our just anxiety for the constitutional condition of our country, which condition is needing Her Excellency's intervention to provide Her Majesty's Canadian subjects with proper and full representation in the Senate of Canada, and thereby to avert the constitutional crisis arising from the Prime Minister's refusal to perform his sworn constitutional duty of advising Her Excellency in the exercise of Her lawful constitutional duties, in particular, Her Excellency's vice-regal duty in regard to Her Majesty Queen Victoria's command which Her Majesty enacted as the British North America Act, 1867, Section 32., in the most carefully chosen words, "When a Vacancy happens in the Senate by Resignation, Death, or otherwise, the Governor General shall by Summons to a fit and qualified Person fill the Vacancy.", which words "shall . . . fill" are clear and unambiguous in their constitutional construction, meaning, and interpretation, and are not open to any doubt whatsoever;

That it appears to your faithful subjects and senators that the Prime Minister has claimed a power unknown to our Constitution and to our law, being the false power of refusal to advise the Governor General, and, that the Prime Minister's public refusal to advise the Governor General on qualified persons for appointment to the Senate is a power which is not only false, but which is also wholly

repugnant to the Constitution, because the exercise of such a power by a prime minister has the effect of making the Governor General into a felon and outlaw of the Constitution, and that this would be a most terrible infamy, not countenanced by the Constitution, of which Her Majesty is the source of all power and authority, and that such infamy would be a most terrible constitutional crisis;

• (1425)

That it appears to your faithful subjects and senators that prime ministers have no constitutional power whatsoever to compel or to cause the Governor General of Canada to transgress the law, and that confronted with such compulsion and provocation from any prime minister, the Governor General's proper constitutional duty is to refuse to acquiesce to that prime minister, and to decline to transgress the law, therein to uphold the Constitution, the law, and the rights of Canadians to responsible government and a lawfully abiding prime minister;

We therefore humbly pray Your Excellency, that, in conformity with the law and the B.N.A. Act, 1867, Section 32., Your Excellency, the Head of Parliament, the high representative of the people of Canada and the actuating power in the Constitution, will be pleased to exercise her lawful and constitutional duties, and will be pleased to summon qualified persons to the Senate of Canada to fill the many and growing vacancies, thereby to provide Her Majesty's Canadian subjects with proper representation in the Senate and thereby also to provide for the proper operation of the Parliament of Canada, for peace order and good government, and for the amelioration of the constitutional condition of the country.

**Some Hon. Senators:** Hear, hear!

## HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE  
TO REFER DOCUMENTS FROM STUDY ON BILL S-21  
DURING FIRST SESSION, THIRTY-EIGHTH  
PARLIAMENT TO STUDY ON BILL S-207

**Hon. A. Raynell Andreychuk:** Honourable senators, I give notice that at the next of the Senate, I will move:

That the papers and evidence received by the Standing Senate Committee on Legal and Constitutional Affairs during its study of Bill S-21, an act to amend the Criminal Code (protection of children) during the first session of the Thirty-eighth Parliament be referred to the Standing Senate Committee on Human Rights for the purpose of its study on Bill S-207, to amend the Criminal Code (protection of children.)

## LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE  
TO EXTEND DATE OF FINAL REPORT ON STUDY  
OF BENEFITS AND RESULTS ACHIEVED THROUGH  
COURT CHALLENGES PROGRAM

**Hon. Donald H. Oliver:** Honourable senators, I give notice that at the next sitting of the Senate, I will move:

That, notwithstanding the Order of the Senate adopted on Thursday, December 7, 2006, the Standing Senate Committee on Legal and Constitutional Affairs, which was authorized to examine and report on the benefits and results that have been achieved through the Court Challenges Program, be empowered to extend the date of presenting its final report from June 30, 2007 to December 31, 2007.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE  
TO EXTEND DATE OF FINAL REPORT ON STUDY  
OF INCLUDING IN LEGISLATION NON-DEROGATION  
CLAUSES RELATING TO ABORIGINAL  
TREATY RIGHTS

**Hon. Donald H. Oliver:** Honourable senators, I give notice that at the next sitting of the Senate, I shall move:

That, notwithstanding the Order of the Senate adopted on Thursday, June 1st, 2006, the Standing Senate Committee on Legal and Constitutional Affairs, which was authorized to examine and report on the implications of including, in legislation, non-derogation clauses relating to existing Aboriginal and treaty rights of the Aboriginal peoples of Canada under s.35 of the *Constitution Act, 1982*; be empowered to extend the date of presenting its final report from June 30, 2007 to December 31, 2007.

[Translation]

## STUDY ON EVACUATION OF CANADIAN CITIZENS FROM LEBANON

NOTICE OF MOTION TO ADOPT REPORT OF FOREIGN  
AFFAIRS AND INTERNATIONAL TRADE COMMITTEE  
AND REQUEST GOVERNMENT RESPONSE

**Hon. Consiglio Di Nino:** Honourable senators, I give notice that at the next sitting of the Senate, I will move:

That the twelfth report of the Standing Senate Committee on Foreign Affairs and International Trade entitled *The Evacuation of Canadians from Lebanon in July 2006: Implications for the Government of Canada*, tabled in the Senate on May 31, 2007, be adopted and that, pursuant to Rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Foreign Affairs, the Minister of Citizenship and Immigration and the Minister of National Defence being identified as Ministers responsible for responding to the report.



[English]

## STATE OF RESEARCH IN CANADA

## NOTICE OF INQUIRY

**Hon. Wilbert J. Keon:** Honourable senators, pursuant to rules 56 and 57, I hereby give notice that on Tuesday, June 12, 2007, I will call the attention of the Senate to the state of research in Canada.

• (1430)

[Translation]

## QUESTION PERIOD

## HERITAGE

SUPPORT FOR THE ARTS—  
FUNDING OF SUMMER FESTIVALS

**Hon. Céline Hervieux-Payette (Leader of the Opposition):** My question is for the Leader of the Government in the Senate. Late last week, the Federation of Canadian Municipalities unanimously passed an emergency resolution calling on the government to immediately distribute the money promised for festivals in the most recent budget. The Mayor of Montreal, Gérald Tremblay, also recently asked the government to release the promised funding without delay to help these events succeed.

In my constituency, the Mayor of Ville-Marie, Benoît Labonté, reminds us that for every dollar the federal government invests in festivals, it gets nine dollars back; that festivals in Montreal create 12,000 jobs, most of which are seasonal; and that festivals attract seven million visitors to the Montreal area and generate \$200 million in economic spinoffs.

When will this government stop stalling the organizations and start paying out the promised money?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for the question. In 2007-08, Canadian Heritage, through the Arts Presentation program, will continue to support many of these local events. I entirely agree that festivals are very valuable not only to the communities in which they are held, but also to people visiting the communities. The Government of Canada is providing over \$20 million to support events across the country in 2007-08.

Minister Oda mentioned in the other place yesterday that many festivals in Montreal will receive between \$300,000 and \$1.2 million from the government this summer.

[Translation]

**Senator Hervieux-Payette:** It will not have escaped the Leader of the Government in the Senate that her government's budget included \$60 million over two years for festivals, or \$30 million a year. When the minister, Ms. Oda, says:

[English]

Festivals inside and outside Quebec this summer simply shouldn't have counted on getting money from the new program in the first place.

[Translation]

Are we to understand that her government's promises are meaningless and that the budget passed in the other place is not binding on the government, unless this money is reserved strictly for the Winterlude festival in Ottawa, which will be held in February? We are talking about festivals that are taking place this summer in Montreal and that have clear benefits, and I am certain the minister for the Montreal area also hopes these festivals will be very successful.

[English]

**Senator LeBreton:** Honourable senators, I think that the Leader of the Opposition has misunderstood. In Budget 2007 we committed to set up a new program to assist local events celebrating arts, culture and heritage with funding of \$60 million over two years. This is new funding and will not affect existing programs or funds that are already in place for existing programs.

[Translation]

**Senator Hervieux-Payette:** I would quite simply like the Leader of the Government in the Senate to explain — because we also must explain how our government works — at what point this budget, which has been before the other place for months and which was supposed to provide funds for events for the 2007-2008 fiscal year, will release the \$30 million and how long will this government take to put these criteria in place?

It seems that we could perhaps help the federal government, and even Raymond Bachand, Quebec's Minister of Economic Development, Innovation and Export Trade, has said that he is ready to help the current government establish criteria for this program.

[English]

**Senator LeBreton:** Honourable senators, I answered similar questions on this matter last week. As I explained then, the \$60 million in new funding in no way affects money currently flowing to existing programs for festivals and cultural events across the country.

As the minister explained, the government is being very judicious in how this new funding of \$60 million will be allocated. There will be a proper applications process for the various festivals and cultural groups that want to access this funding.

• (1435)

Since it is new funding and does not affect funding for the existing summer season, the government wants to be very careful that the organizations that will be applying for this funding are worthy organizations, that they meet a certain criteria because, as I mentioned a few days ago in this place, we do not want a situation to develop again whereby funding ends up in places it was not intended to end up.

[Translation]

**Hon. Francis Fox:** Honourable senators, my question is a follow-up to that of the Leader of the Opposition in the Senate. After yesterday's press conference by the Mayor of Montreal, the Mayor of Ville-Marie and representatives of the Regroupement des événements majeurs internationaux (REMI) and the Coalition des grands événements de Montreal, the Mayor of Montreal made a statement. He was quoted this morning in the *Montreal Gazette* by two reputable journalists, Jan Ravensbergen and Elizabeth Thompson.

[English]

"I talked with" Michael Fortier. . . "again this morning" to try to unblock the money. . . Fortier told Tremblay he was "working very hard to get the answers we need today," . . .

[Translation]

I assume that Senator Fortier believes that this \$60 million could be disbursed right now and that there is no reason to wait.

Could the Leader of the Government in the Senate tell us if Mr. Fortier kept his promise to speak to Ms. Oda? Did he do his best "today", as he stated yesterday in his conversation with Mayor Tremblay?

[English]

**Senator LeBreton:** Honourable senators, not only did he do that, but Minister Oda actually answered yesterday when she made it clear that festivals in Montreal will receive between \$300,000 and \$1.2 million from the government this summer. I will be happy to obtain from the minister for the honourable senator the information to back up these figures.

[Translation]

**Senator Fox:** I want to thank the minister for her response, even though she did not answer the question.

There was a time when Marcel Masse, another minister in the Mulroney government, toured the country promising subsidies and reimbursements for culture when he did not really have the budget to do so, but the government never abandoned arts and culture. Now we have Minister Oda, who is touring the country talking about her budget but refusing to spend it. You will agree that these two situations are somewhat ironic.

Let us come back to yesterday's press conference. The spokesperson for the Canadian Festivals Coalition and director general of the Rassemblement québécois des événements majeurs internationaux confirmed in *La Presse* that a lobbyist had been

hired by the festivals under a contract worth between \$250,000 and \$300,000. He thinks the lobbyist played a key role in the announcement of the new annual \$30 million program for the next two years.

Do these people need to hire a second lobbyist to pay out the money the first lobbyist obtained by convincing the current government? Would it not be better, Madam Minister, to listen to Senator Fortier, who, in the words of Montreal's mayor, said he would do everything he could to unblock the money for this program? Would it not be better to listen to festival organizers, town mayors across Canada and certain provincial governments? In short, would it not be better to listen to these people instead of telling us over and over again that a program already exists? We are talking about the new \$60 million program, not the existing money.

[English]

**Senator LeBreton:** Honourable senators, I cannot do anything but repeat what I have just said. In terms of the money that has been flowing to festivals in Montreal and the fact that these groups would hire a lobbyist, I have not had the opportunity to read the article so I will not comment on it.

With regard to the additional \$60 million, as I said last week, I believe the honourable senator would agree that this is additional money and the government wants to ensure that this money flows to organizations that are deserving, that contribute to our arts and cultural life in this country, and that it does not end up in the hands of people where it was not intended to end up.

• (1440)

## PUBLIC WORKS AND GOVERNMENT SERVICES

### REVIEW OF GOVERNMENT POLLING— EXTENSION OF MANDATE

**Hon. Sharon Carstairs:** Honourable senators, my question is for the Minister of Public Works and Government Services as part of my ongoing strategy so that he will not feel lonely, unloved or unappreciated in this place.

Last Thursday, in reply to my question with respect to a poll of the ethnocultural communities of the government's five priorities — which failed to meet Treasury Board guidelines because it was not released until the government was forced to do so by the media — Senator Fortier responded that he welcomed the information and that I should provide him with additional information polls that had failed to meet this guideline. I welcome that initiative.

Will the minister go one step further and review the mandate of Mr. Paillé and allow him to investigate not only this polling contract, but also all other polling contracts that have been undertaken since this government took office?

**Hon. Michael Fortier (Minister of Public Works and Government Services):** Honourable senators, I am not aware of the data in relation to this additional poll that was not released, so I will need to be informed about it.



With respect to Mr. Paillé's mandate, we have pegged the goalposts at 1990 to 2003. That was in our political platform. I am sure that will not please the honourable senator as an answer, but it was there. At least the matter was out there in the open, transparent and in writing, black and white. It was linked to the Auditor General's report of 2003.

The honourable senator has since stated that she is happy with the measures implemented. All things being considered, it probably makes sense to keep those goalposts.

**Senator Carstairs:** I am delighted that the honourable senator does not think those goalposts should be kept, since he is quite right, the Auditor General made that statement.

Why, then, would the minister be unwilling to increase those goalposts to include any polling that has been undertaken while this government has been in office?

**Senator Fortier:** Maybe the honourable senator and I are confusing two issues, or maybe I am.

The issue to be addressed through Mr. Paillé's inquiry is how contracts were awarded. It is important that the data be released. I agree with the honourable senator.

In essence, Mr. Paillé's role is to indicate to us how the procurement process was handled by governments. There were several between 1990 and 2003.

If I understand the honourable senator correctly, she is complaining at this stage about the lack of disclosure in terms of the polling data. I say to her again today, I am happy to release the data or speak to my colleagues who have requested those polling numbers and who have sought polling on certain issues to ensure that they release the data. To me, these are two different issues.

**Senator Carstairs:** I think those issues are exactly the same. If Senator Fortier thinks it is important to ensure that governments from 1990 to 2003 were accountable, then I think it is equally important that governments in 2006 and 2007 are accountable.

Will the minister revise the mandate of Mr. Paillé and ask him to continue to investigate any contracts given to any firms for polling purposes so that his government can be just as accountable as the Auditor General said the previous government was?

**Senator Fortier:** The Auditor General confirmed that, since 2003, she was happy with how the process was being conducted. Frankly, I do not see the reason for asking Mr. Paillé to go through materials which the Auditor General has obviously reviewed and blessed.

Mr. Paillé is intending to review materials that go back to 1990 for reasons we have stated in the past. I agree with the honourable senator, it is important we be transparent.

Having said that, I believe that there was only one poll that was not published within the six-month period. If there is another, I ask the honourable senator to let me know. Senator Carstairs started her question by stating there is another case.

[ Senator Fortier ]

**Senator Carstairs:** No, I did not.

**Senator Fortier:** I do apologize. We have the one case, and we will ensure the same thing does not happen again.

• (1445)

[Translation]

## HERITAGE

### SUPPORT FOR THE ARTS— FUNDING FOR SUMMER FESTIVALS

**Hon. Jean Lapointe:** Honourable senators, my question follows on Senator Fox's and is for the Leader of the Government in the Senate. In addition to being an excellent tap dancer and having a way with words, the Leader of the Government has become a verbal contortionist. I greatly admire her for all these qualities, but I would like an answer that is as short as my question.

Will the festivals receive the \$30 million before the events, yes or no?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for the question. There is a two-part answer. Funding to festivals is ongoing, and, as I have now pointed out three times, large festivals in Montreal, as Minister Oda said in the other place yesterday, will receive between \$300,000 and \$1.2 million from the government this summer.

The amount that seems to be in question is the \$60 million which people say has not been allocated. This was \$60 million additional dollars included in Budget 2007. As I explained today, and last week, the government and the department will be receiving applications for access to that \$60 million. There are many festivals that take place in this country. Summer festivals are being funded. The \$60 million will be accessible to anyone who wants to make application. Once it has been adjudicated to be a worthy recipient, the money will flow.

The government and the department is being careful to ensure that this money is being properly disbursed because, as I have said before, we do not want festival money or sponsorship money — or whatever you want to call it — to end up in hands where it was not intended to end up.

[Translation]

**Senator Lapointe:** I would just like to make a comment. That is the longest "yes or no" answer I have ever heard in my life.

[English]

## THE SENATE

### MINISTER OF PUBLIC WORKS AND GOVERNMENT SERVICES—RECORDED VOTES—RESIGNATION

**Hon. Lorna Milne:** Honourable senators, last week the Journals Branch of the Senate was kind enough to inform me that there have been 22 recorded votes in the Senate during the 102 sitting days since the session began on April 3, 2006.

On that day, April 3, 2006, a very special event occurred here. We had the privilege of being joined by our colleague, Senator Fortier. Since Senator Fortier has been the only Canadian officially introduced into this chamber since that time, I have had a significant amount of time to review the *Journals of the Senate*, which leads to my question.

Can the minister himself, or, as usual, the Leader of the Government in the Senate on his behalf, advise honourable senators how many times Senator Fortier has stood in his place and had his vote recorded in the 102 sitting days since this session started over a year ago?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, that is an interesting question. I do not know whether it exactly falls more into the category of Senate business or government business. I do not know the purpose or intent of the question, but I suppose a perusal of the Senate records could answer it. I do not have the answer off the top of my head. Suffice to say that Senator Fortier is a valued colleague, an excellent minister of public works and a nominated candidate to run for office for the House of Commons in the next general election.

**Senator Milne:** I thank the honourable senator, I guess, for that “sort-of” response. I would indicate to the chamber and for the record that Senator Fortier held up his fingers and said zero. I must tell honourable senators that he is wrong. To the best of my knowledge, Senator Fortier has cast a recorded vote five times since April of last year.

• (1450)

Can the minister himself or, once again, the Leader of the Government on the minister's behalf, tell honourable senators how many sitting days Senator Fortier has stood in his place and had his vote recorded in this place in those 102 days?

**Senator LeBreton:** Honourable senators, that begs the question: Why did the honourable senator ask the question in the first place, if she had the answer?

**Senator Milne:** As the Leader of the Government knows full well — and she shows her expertise at it — this is Question Period, not answer period.

Honourable senators, I can tell you that the honourable senator, to the best of my knowledge, has cast a recorded vote on only one day since the session started. That was November 9, 2006 — five votes on one sitting day, and that is it.

This government keeps preaching accountability, while changing the rules so they can be unaccountable to Canadians — not that one needs to change any rules to be unaccounted regarding recorded votes; rather, one can simply follow the honourable senator's example and fail to show up.

As the Leader of the Government has pointed out, Senator Fortier has been quoted in the press on many occasions as saying that he is prepared to run in an election in the other place at the earliest opportunity. However, when the opportunity presented itself, he did not do so. If the honourable senator is not interested in being here in this chamber and representing the people of the province of Quebec, why did he not resign his seat and run as a

candidate in the November 2006 by-election in Montreal? If Senator Fortier is not interested in being here in this chamber, why does he not just resign his seat for the benefit of all Canadians?

**Senator LeBreton:** These types of questions do not, in my view, warrant a lot of attention. The fact is Senator Fortier was appointed Minister of Public Works and Government Services in February 2006. He is doing an outstanding job as Minister of Public Works and Government Services and representing the people of Montreal within government and at the cabinet table.

The good people of Vaudreuil have already approached Senator Fortier to be their candidate. He indicated to them that he was going to run in that riding and he has subsequently been nominated for that riding. The moment the general election is called, Senator Fortier will be very happy to accommodate Senator Milne and resign from the Senate.

**Hon. Lowell Murray:** Will the Leader of the Government examine the possibility that the Minister of Public Works has not been here because he was paired with some frequently absent Liberal senator?

**Senator LeBreton:** That is a possibility; I appreciate the honourable senator's question. However, if we were to go down that road the colour of some faces in this place would be similar to that of the carpet.

## VETERANS AFFAIRS

### VETERANS INDEPENDENCE PROGRAM— COVERAGE OF SPOUSES OF VETERANS OF WORLD WAR II AND KOREAN WAR

**Hon. Catherine S. Callbeck:** My question is to the Leader of the Government. It concerns the Veterans Independence Program, which is a valuable program that enables veterans and their spouses to live in their own homes longer, close to their family and friends. Unfortunately, this program does not cover all spouses.

Prior to and during the last election, the Prime Minister made a commitment that he would expand this program to include all spouses of veterans from the Second World War and the Korean War. When will the government honour this commitment made by the Prime Minister?

• (1455)

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for the question. As she is well aware, Veterans Affairs Canada is conducting a comprehensive review of all its health care programs and services to veterans, initiated last year by the Minister of Veterans Affairs, Greg Thompson. The review will develop proposals aimed at ensuring that elderly veterans and their survivors continue to receive the health care programs and services most needed by them. About 97,000 veterans and their primary caregivers qualify for the Veterans' Independence Program services across the country at a current cost of approximately \$270 million per year. In addition to this program, Veterans Affairs Canada provides a wide range of support for our veterans. If any veterans or their caregivers think



that they are eligible to receive help for a need that is not being met, we will work with them directly to see that they receive the care they need.

**Senator Callbeck:** I am glad to hear that the government is providing services to veterans — it is their duty to do so. I asked a specific question: When will the government expand this program?

Recently in my province of P.E.I., I attended an event hosted by the Royal Canadian Legion Ladies Auxiliary, Provincial Command, where I was asked when the government would expand the program as promised by the Prime Minister so that it would include the spouses of all veterans from World War II and the Korean War. The honourable leader mentioned that Veterans Affairs Canada will undertake a review of all its programs. I would like to know when the review on the VIP will be completed. If the Leader of the Government in the Senate is talking to Minister Thompson, would she impress upon him the importance of this very valuable program?

**Senator LeBreton:** Minister Thompson and the Prime Minister recently made an announcement about the veterans' ombudsman. With respect to the honourable senator's direct question, I will be happy to take it as notice and provide a written response as quickly as possible for the honourable senator.

[Translation]

## OFFICIAL LANGUAGES

### LINGUISTIC DUALITY— CONSULTATION ON PRIORITIES

**Hon. Maria Chaput:** Honourable senators, my question is for the Leader of the Government in the Senate. This past weekend, like a number of my colleagues, I attended the Summit of Francophone and Acadian Communities in Canada. The 700 francophones and Acadians who took part adopted a 10-year development plan, the culmination of a lengthy consultation process that began in 2005.

In her speech at the summit, Minister Verner announced that she, and I quote:

... will hold extensive consultations on the government's overall vision for official languages and linguistic duality.

Within a year, we will have a clear roadmap that will have been developed with and for all communities.

Can the minister assure us that all the consultations, the discussions and the common strategies that came out of those two years of hard work and the three days of discussion at the summit that just took place will be taken into consideration and recognized by the minister as the definitive consultations she no longer has to hold?

Could your government accept that the priorities approved at the summit by all our leaders do, in fact, represent the needs and priorities of these communities, by the communities and for the communities, given the specific situation, and that your government now has the obligation not to hold new consultations, but to help implement this plan?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for the question. Minister Verner is a credible, committed spokesperson for the government on this issue as well as on her other responsibilities. This government has demonstrated its strong commitment to linguistic duality and official language minority communities. In response to previous questions, I pointed out that Budget 2007 includes an additional \$30 million for cultural and after-school activities and community centres for linguistic minorities. This amount is in addition to the \$642 million over five years provided in the Action Plan for Official Languages. For the record, since taking office, the government has announced significant support for official language minority communities and linguistic duality: \$1 billion over four years, until 2009, in education agreements with the provinces and territories; \$64 million over four years, until 2009, in agreements with the provinces and territories for services; and \$120 million, until 2009, in agreements for official language minority communities.

• (1500)

I heard Senator Chaput's statement during Senators' Statements. I wish to assure Senator Chaput that the government is fully committed to Canada's minority language groups and to official languages, just as I assured her some time ago when she asked if the New Horizons for Seniors Program was to be cut. In fact, we added money to the New Horizons for Seniors Program. I wish to assure Senator Chaput that this government is fully committed to and has put significant monies into these programs through the provinces and territories.

[Translation]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour of tabling two responses to oral questions raised by the Honourable Senator Cowan on April 26, 2007, in regard to France, the boycott on seal products, and another raised by the Honourable Senator Milne on March 20, 2007, in regard to housing on reserves.

## INTERNATIONAL TRADE

### FRANCE—BOYCOTT OF SEAL PRODUCTS

(Response to question raised by Hon. James S. Cowan on April 26, 2007)

Canadian officials have been active in addressing moves by the French government to extend the existing European Union-wide import ban on seal pup products to cover all seal products imported into France. For example, during the first week of May, Canadian officials, including the Ambassador for Fisheries Conservation, Loyola Sullivan, met with the counsellors to President Chirac and high level officials of the Ministry of Ecology and Sustainable Development as well as the Ministry of Tourism to register Canada's concern regarding the extension of the ban. The meeting provided an opportunity to give French officials information regarding wildlife conservation and sealing practices.

The extension of the ban by France would take the form of a decree and could not take effect until the fall of 2007. An amended decree must be co-signed by the Ministers for Ecology, Agriculture and for Overseas and requires an opinion of the National Council of the Protection of Nature. This Council next meets in September 2007. This time frame offers Canada an opportunity to continue to address the issue through diplomatic channels. The Canadian government will raise the issue with officials in the new French government.

## BUDGET 2007

### SPENDING ON ABORIGINAL PEOPLES

*(Response to question raised by Hon. Lorna Milne on March 20, 2007)*

In response to the question on how many houses on-reserve could be built for \$450 million, it should be clarified that the \$450 million identified in Budget 2006 was not only for housing, but education, water and to general improvement of socio-economic outcomes for Aboriginal women, children and families as well.

As the Honourable Senator indicated, houses in remote communities are significantly more expensive to construct. However, based on experience to date, the cost to build and service a house on reserve averages \$150,000 per unit for a typical three bedroom house. In addition, every \$1 million in direct funding will result in approximately six houses being built. If the funding is leveraged with private-sector financing, considerably more units can be delivered.

On April 20, 2007, Ministers Prentice and Solberg jointly announced the creation of a \$300 million First Nations Market Housing Fund. The Fund will make it easier for First Nation individuals to obtain a loan to build, buy or renovate a house on reserve lands, and it will act as a guarantee against defaults for lenders who provide loans to First Nation home-buyers on-reserve.

A market-based approach will increase the housing supply on reserve, and provide First Nation individuals with a means to build equity and generate wealth, while maintaining the integrity of the reserve land base. This Fund represents a fundamental shift in how the Government of Canada supports housing on-reserve and builds on best practices demonstrated by the First Nations themselves.

It is estimated that the Fund could provide up to 25,000 units over the next ten years. The Fund is voluntary and available to those First Nations who choose to apply and qualify, and in addition, the Fund is not replacing any existing programs, rather it is another tool available to First Nations to address housing needs. The Fund is slated to become operational by April 2008.

The ultimate objective is to move away from a system that depends almost entirely on government subsidies, to a system that gives First Nations people the same housing opportunities and responsibilities as other Canadians.

[English]

## CONSTITUTION ACT, 1867

### BILL TO AMEND—REPORT OF SPECIAL COMMITTEE ON SUBJECT MATTER— POINT OF ORDER WITHDRAWN

**Hon. Anne C. Cools:** Honourable senators, I rise to withdraw the point of order that I had raised last Thursday. As honourable senators will recall, I had raised a point of order in respect of Item No. 1 of Reports of Committees, being the report of the Special Senate Committee on Senate Reform. Last Thursday, we settled many of the questions I had raised here on the floor. It seems to me that the need for a ruling is redundant because the entire situation has been overtaken by time and events.

## ORDERS OF THE DAY

### PERSONAL WATERCRAFT BILL

#### THIRD READING—DEBATE ADJOURNED

**Hon. Tommy Banks** moved third reading of Bill S-209, concerning personal watercraft in navigable waters.  
—(Honourable Senator Banks)

He said: Honourable senators, I think that everyone here knows everything there is to know about Bill S-209. This is the fourth time we have dealt with it on the floor. I simply urge all honourable senators to join in passing this bill, as we have once before.

On motion of Senator Comeau, debate adjourned.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Before we proceed any further, Senator Ringuette was out of the room at the time when Bill C-40 was called. I was wondering if I might get unanimous consent to revert back to Bill C-40 so that she could speak on this bill.

**Hon. Senators:** Agreed.

## SALES TAX AMENDMENTS BILL, 2006

### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Meighen, seconded by the Honourable Senator Keon, for the second reading of Bill C-40, to amend the Excise Tax Act, the Excise Act, 2001 and the Air Travellers Security Charge Act and to make related amendments to other Acts.



**Hon. Pierrette Ringuette:** As a point of correction, I was not out of the room; I was discussing an important issue with Senator Fortier. Only time will tell if Senator Fortier resolve the issue.

Honourable senators, I am pleased to rise today to speak to Bill C-40 at second reading. An Act to amend the Excise Tax Act, the Excise Act 2001 and the Air Travellers Security Charge Act and to make relative amendments to other acts.

This bill contains a number of administrative amendments proposed to streamline the operation of the sales tax system. The bulk of this bill has to do with bringing previous legislation in line with the policy intent of the government and implementing previously proposed legislation that required further study. I understand this was done after adequate consultation.

Honourable senators, Bill C-40 is divided into three parts. Part 1 implements measures relating to the Goods and Services Tax and Harmonized Sales Tax; Part 2 contains measures relating to the taxation of wines, spirits and tobacco products; and Part 3, amends the Air Travellers Security Charge Act.

The main problem with this bill is that it is extremely diverse in nature and many of its provisions are completely unrelated to one another. For example, Bill C-40 ensures consistency in the GST/HST legislation by providing tax-free status to the sale and importation of a blood substitute known as plasma expander. Another provision deals with ensuring the consistent application of the GST/HST to various agricultural products that can be purchased, imported and sold by farmers on a tax-free basis.

It is very unusual for the same legislation to address GST measures, an amendment to the Air Travellers Security Charge Act and measures related to the regulation of tobacco and alcohol. Nevertheless, taken independently, most of these measures make sense and represent a miscellaneous improvement to the consistency of our tax system.

The main feature of these taxation amendments are the provisions pertaining to the rules for applying the Harmonized Sales Tax. I believe that it is much better and much more equitable to Canadians to concentrate on cutting income tax, which is levied on increased income, rather than on cutting sales tax.

The Liberal Party has always been, as far as I can remember, a keen supporter of fairness with respect to using income tax as the basis for fairness towards Canadians. We have to keep in mind that most of the goods that provide us with our basic needs were exempt from sales tax.

The Conservative tax plan will benefit the upper class of our society. Working families will not save 1 per cent on bread and milk, but the friends of the Conservatives will save 1 per cent on their new luxury sport utility vehicles. That is the Conservative plan, or should I say the Reform plan?

In the first part of Bill C-40, one will find mostly GST/HST-related measures with broadly distinct amendments. The bill amends the rules on health, charities, business arrangements and governments and contains certain provisions changing the way in which the GST is applied. An important measure of this part deals with health-related rules. The bill

amends the act so that speech-language pathology services are henceforth effectively zero-rated. This change confirms the tax-exempt status of these services, which will make it easier for young people with language problems to access such services.

• (1510)

A second section that caught my attention was the government's initiative to zero-rate sales and importation of a product that can be used to some extent as a blood substitute. Plasma expander makes it possible, for example, to inject a blood substitute during treatment for very serious burns or open fractures. Plasma expander provides an alternative during crucial treatment for seriously injured patients.

The government will also offer a GST rebate on motor vehicles that have been used after being specially equipped for use by individuals with disabilities.

Honourable senators, one can only be pleased with such initiatives. May I also say that most of the positive initiatives in this omnibus bill are a result of Liberal budgets.

Furthermore, concerning charities, some amendments will ensure that the exemption of supplies by charities of real property under short-term leases and licences extends to any goods supplied with such real property, for example, video screens and computers. This will mean less financial pressure on charities as they carry out their important social mission.

The third measure concerns business arrangements. The amendment to the GST legislation provides transitional GST-HST relief on the initial asset transfer by a foreign bank that restructures its Canadian subsidiary into a Canadian branch. This measure will act as an incentive to foreign banks in Canada to restructure their subsidiaries as Canadian branches, thereby promoting more competition in the Canadian banking sector.

Bill C-40 removes technical impediments that hindered the use of existing group relief provisions under the GST-HST. This amendment clarifies the rules of application of the legislation that are already in effect. In addition, the bill simplifies compliance by excluding beverage container deposits that are refundable to the consumer from the GST-HST base. In other words, honourable senators, in purchasing, say a six-pack of beverages where there is an added fee for the return of the beverage containers, under Bill C-40 the added fee is not a taxable item. This will make it easier for businesses to manage collection and will lighten the regulatory burden associated with deposits, with a view to promoting more recycling and environmental protection.

Other technical sections deal with the possibility of an agent to claim GST-HST deduction for bad debts and to claim adjustment or refunds of tax in respect of sales made on behalf of a principal where an agent collects or reports tax. Another measure extends the existing agent rules under the GST-HST legislation to persons acting only as billing agents for vendors.

The second part of this bill contains measures relating to the taxation of wines, spirits and tobacco products. A review of the federal framework for the taxation of alcohol and tobacco products resulted in new existing legislation in 2001. With these amendments, it will provide administration and enforcement, updated to reflect the current industry tendencies and practices.

Honourable senators, given that these sections are highly technical, I will not go into detail. The first of the principal measures deals with tobacco and seeks to give greater precision to certain provisions contained in the Excise Tax Act in order to better defend against the smuggling of tobacco products and facilitate collection of taxes on tobacco. The bill includes measures to extend the requirement to identify the origin of tobacco products on all products, including those sold at duty-free shops or for export, consistent with the Framework Convention on Tobacco Control, an international agreement. The bill also specifies that cigarettes, tobacco sticks, fine-cut tobacco or cigars, but not packaged raw leaf tobacco, may be supplied to the export market or the domestic duty-free market.

The second measure concerns alcohol. The bill has two main objectives. First, it authorizes provincial liquor boards and vintners to possess a still or similar equipment, for the purpose of analyzing substances containing ethyl alcohol without holding a spirits licence. This measure aims to avoid the administrative burden and cost of requiring provincial liquor boards and vintners to obtain a permit.

Part 3 of the bill contains provisions relating to the Air Travellers Security Charge. It makes various technical amendments that come mainly as a result of the consultative process with interested parties. These were implemented a few years ago, after the unfortunate events of September 11. They include the announced relief measures and minor changes to the Air Travellers Security Charge Act. There are two main measures. The first is tax relief. The bill relieves, in particular circumstances, the Air Travellers Security Charge in respect of air travel sold by reseller or donated by air carriers. This measure would help charities like the Children's Wish Foundation of Canada, which is dedicated to fulfilling a favourite wish for children afflicted with a high-risk, life-threatening illness. These amendments can only be applauded. From an administrative point of view, the bill provides authority for the Governor-in-Council to add, delete or vary by regulation the scheduled of listed airports.

On a last note, I wish to convey to this house that I have some concern with clause 46 of the bill. As you are aware, honourable senators, the Minister of National Revenue had the power, through the Excise Tax Act, to waive or cancel penalties and interest payable by a person — without any restrictions on how far back they could apply their discretion. However, through the Budget Implementation Act, 2006, those provisions were amended by introducing a 10-year limitation period, which came into application on April 1, 2007.

Clause 46 of this bill would, once again, give the ability to the minister to waive or cancel penalties and interest beyond the 10-year limitation. Is this recognition by the government that its own legislation was flawed? Last year, a 10-year limitation was introduced with the general theme of the government on accountability. This year — two months after the 10-year limitation was legislated, introduced and implemented — they are coming back with an omnibus bill removing the 10-year limitation of the Minister of National Revenue to have the ability to waive all penalties and interest.

The bill is about 140 pages long and it is an omnibus bill. If the bill were a means to try to hide the fact that the government either

no longer wishes to be accountable or wishes to waive the accountability period beyond 10 years, that has been uncovered here.

Honourable senators, I encourage this chamber to send this proposed legislation to committee for it to follow its due course. I hope the committee will look extensively at the bill and, in particular, at the abolishment of the 10-year limitation on the part of the minister to waive interest and penalties for any person. I certainly do not agree with that.

• (1520)

**The Hon. the Speaker pro tempore:** Are honourable senators ready for the question? It was moved by the Honourable Senator Meighen, seconded by Honourable Senator Keon, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker pro tempore:** When shall this bill be read the third time?

On motion of Senator Meighen, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

## KYOTO PROTOCOL IMPLEMENTATION BILL

REPORT OF COMMITTEE—  
MOTION IN AMENDMENT—DEBATE CONTINUED—  
VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Trenholme Counsell, for the third reading of Bill C-288, to ensure Canada meets its global climate change obligations under the Kyoto Protocol;

And on the motion in amendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Angus, that Bill C-288 be not now read a third time but that it be amended:

(a) in clause 3, on page 3, by replacing line 19 with the following:

“Canada makes all reasonable efforts to take effective and timely action to meet”;

(b) in clause 5,

(i) on page 4,

(A) by replacing line 2 with the following:

“to ensure that Canada makes all reasonable efforts to meet its obligations”;



(B) by replacing line 6 with the following:

“ance standards for vehicle emissions that meet or exceed international best practices for any prescribed class of motor vehicle for any year,” and

(C) by adding after line 13 the following:

“(iii.2) the recognition of early action to reduce greenhouse gas emissions, and”,

(ii) on page 5,

(A) by replacing line 9 with the following:

“(a) within 10 days after the expiry of each”,

(B) by replacing line 23 with the following:

“first 15 days on which that House is sitting”, and

(C) by replacing lines 26 and 27 with the following:

“each House of Parliament is deemed to be referred to the standing committee of the Senate and the House of Commons that”;

(c) in clause 6, on page 6, by adding after line 29 the following:

“(3) For the purposes of this Act, the Governor-in-Council may make regulations restricting emissions by “large industrial emitters”, persons that the Governor-in-Council considers are particularly responsible for a large portion of Canada’s greenhouse gas emissions, namely,

(a) persons that are part of the electricity generation sector, including persons that use fossil fuels to produce electricity;

(b) persons that are part of the upstream oil and gas sector, including persons that produce and transport fossil fuels but excluding petroleum refiners and distributors of natural gas to end users; and

(c) persons that are part of energy-intensive industries, including persons that use energy derived from fossil fuels, petroleum refiners and distributors of natural gas to end users.”;

(d) in clause 7,

(i) on page 6,

(A) by replacing line 32 with the following:

“that Canada makes all reasonable attempts to meet its obligations under”, and

(B) by replacing line 38 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 7, by replacing line 4 with the following:

“(3) In ensuring that Canada makes all reasonable attempts to meet its”;

(e) in clause 9,

(i) on page 7, by replacing line 33 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 8,

(A) by replacing line 3 with the following:

“Minister considers appropriate within 30 days”, and

(B) by replacing line 7 with the following:

“(1) or on any of the first fifteen days on which”;

(f) in clause 10,

(i) on page 8,

(A) by replacing line 9 with the following:

“10. (1) Within 180 days after the Minister”,

(B) by replacing line 11 with the following:

“tion 5(3), or within 90 days after the Minister”, and

(C) by replacing line 38 with the following:

“(a) within 15 days after receiving the”, and

(ii) on page 9,

(A) by replacing line 6 with the following:

“Houses on any of the first 15 days on”, and

(B) by replacing line 9 with the following

“(b) within 30 days after receiving the advice,”;

(g) in clause 10.1, on page 9,

(i) by replacing line 17 with the following:

“and Sustainable Development may prepare a”,

(ii) by replacing line 32 with the following:

“report to the Speakers of the Senate and the House of Commons”, and

(iii) by replacing lines 34 and 35 with the following:

“Speakers shall table the report in their respective Houses on any of the first 15 days on which that House”.—(*Honourable Senator Comeau*)

**Hon. Ethel Cochrane:** Honourable senators, I am privileged to speak to the amendment to Bill C-288, to ensure Canada meets its global climate change obligations under the Kyoto Protocol. The bill before us purports to deal with climate change. It is an issue that has been characterized by some, including our honourable colleague Senator Mitchell, as the most important issue facing the country in a generation — the issue of the 21st century.

Honourable senators, I share the belief that climate change is an important issue, one that I, like many Canadians, have taken action on in my own home and in my daily life by replacing old light bulbs with energy efficient ones, by turning down the thermostat, by driving less and by being mindful of my energy use. However, while I am committed to implementing changes that will help the environment, I feel the bill before us is nothing more than a political manoeuvre.

As parliamentarians, we are entrusted with the job of carefully and seriously considering legislation. Therefore, for this legislation, which deals with the most important issue facing our country, how do we perform this serious work? We held a grand total of seven meetings, discussing this bill with only 18 witnesses, some of whom were appearing on behalf of the same organization.

This is a bill that, by the government's own analysis, will cost 275,000 Canadians their jobs by 2009 and will see prices for gasoline, electricity and natural gas skyrocket, and yet we do not even take the time to hear from economists. Only one economist appeared, Jayson Myers, and that was in his capacity of Senior Vice President and Chief Economist of the Canadian Manufacturers and Exporters.

Given the limited scope of the investigation of this bill, I can only assume it was not given more thoughtful consideration because those on the side with numbers to make a difference thought this legislation was so obvious a ploy that it was not even worth the time needed for debate and discussion.

Honourable senators, sometimes it seems, in this place and elsewhere, that if one asks questions and seeks to probe beyond the surface of environmental issues, one is seen somehow as an enemy of the environment. This is a misrepresentation of the facts, and it is simply wrong.

It may surprise some honourable senators to know that other witnesses, many of whom have outstanding records of environmental achievement, voiced opposition to Bill C-288. We were told that Bill C-288 is simply not what Canada needs at this stage.

I think Richard Paton, President and Chief Executive Officer of the Canadian Chemical Producers' Association, perhaps said it best when he told the committee:

Bill C-288 is unfortunately a perfect example of a bill that reacts to an issue without a solid policy platform that will lead to long-term solutions to this important issue. . . . Climate change is a serious issue, but it deserves to be treated seriously. This bill does not do so.

Robert Page, the TransAlta Professor of Environmental Management and Sustainability at the University of Calgary, had similar concerns about the bill. He said:

In my opinion, this bill is politically motivated to a greater extent than it is in terms of the real climate change challenges and the real circumstances that Canada faces today.

He continued:

There is something absurd about legislating what is normally an eight to 14-year period for a new power plant and fundamental technology in the Kyoto period . . .

This is particularly true because any of the tonnes that we miss in 2008 are extra tonnes we have to pick up in the later years of the Kyoto period. This is not a target for 2012. This is the target for January 1, 2008.

In his presentation before the committee, Pierre Alvarez, President of the Canadian Association of Petroleum Producers, referred to the targets outlined in the bill as “Canada's domestically unachievable Kyoto target.” He went on to say:

We believe Bill C-288 would be yet another diversion that would delay action in the areas required. The cost of buying foreign credits, if they were available, to cover Canada's 2008 to 2012 gap is conservatively estimated to be between \$15 billion and \$30 billion.

Indeed, many of the business leaders we heard from share these concerns. What surprised me, honourable senators, is the sense of commitment to achieving real environmental results that all of these groups seemed to have. I am sure Senator Mitchell would agree. They all want to improve and advance the environmental cause in this country, but they want to approach it in a balanced way.

Jayson Myers, Senior Vice-president and Chief Economist with the Canadian Manufacturers and Exporters, said in his presentation:

The key message here is how do we make doing something good for the environment something also good for the economy? I believe that can be done. I am concerned, though, that if we focus on unrealistic targets — and I believe the Kyoto target to be unrealistic — that we would lead to counterproductive outcomes. That is the experience we have had over the last 10 years of talking about how we would put this together.

He continued:

To put that into perspective, then, to go from where we are now to actually meet Canada's Kyoto obligation of 6 per cent reduction from 1990 levels, we would require, if we started right away, somewhere in the level of a



30 per cent, 35 per cent reduction in emissions over a five-year period. That would require an acceleration factor of 700 per cent acceleration in this rate of technological progress.

He later said:

Let us do things based on a realistic time frame, what technology can actually deliver and let us do things right that actually provide incentives.

• (1530)

Bob Page, to whom I referred earlier, was a particularly compelling witness. I was deeply impressed with his wealth of knowledge and experience as well as the honesty with which he spoke. Dr. Page was part of the official delegation for Canada and has worked privately for the Government of Canada in a variety of ways over the last 10 years. This is what he said:

It is not with any degree of enthusiasm that I have come to this conclusion that it is impossible to implement the Kyoto Protocol target now that we are only eight months before they commence.

Honourable senators, in looking beyond the great many concerns raised about meeting the Kyoto targets in such a short timeline, one finds serious flaws with the proposed legislation. Consider, for instance, that Bill C-288 does not include any recognition of the efforts made by Canada's environmental leaders, the early actors who have long been addressing their greenhouse gas emissions.

Avrim Lazar, the president and CEO of the Forest Products Association of Canada told the committee the following:

Unless the early actors, those parts of society and industry who have been responsible environmental citizens since 1990, are recognized, we will be sending a clear signal that dragging our feet until regulation is the right strategy. We cannot afford this as a country. We have to recognize in regulation what early actors do so that industry and citizens realize that we should not wait for regulation; we should do what the Canadian forest industry has done and act.

One argument often promoted by those on the other side of the debate is that being green attracts economic advantages. Honourable senators, this argument is partly right at best. The reality is that true economic advantages are reaped only when there is a level playing field, as Mr. Lazar so clearly explained:

It is true that there are economic advantages to being green, but we should not oversimplify the situation because if our competitors are not green, we may be advantaged, but, in the long run, we will be out of business. There must be a level playing field. We can be greener than the competitors, but there is a comfort limit. We can get this far ahead but if we get too far ahead, we are actual shutting ourselves down and handing over the production to people who are not doing their environmental job. It is great to be green, but it is also great to stay in business. There is a margin beyond which you do not want to get ahead of global standards.

Richard Paton of the Canadian Chemical Producers' Association echoed the following sentiment:

In its current form, this bill does not deliver a sustainable solution. Canada must go forward, with a sustainable strategy that recognizes past performance and builds on ensuring a global solution that does not undermine Canada's competitiveness.

Dr. Page was perhaps most clear in his advice to the committee:

... I strongly urge that this committee — with its traditional role, as Mr. Paton put it, of sober second thought — come back either with amendments to, or rejection of, this bill so that we can build a Canadian plan that meets Canadian circumstances and really does deliver a program that will cut emissions significantly in an appropriate time frame.

Honourable senators, I am sure we all can appreciate the difficulties Senator Tkachuk faced in devising his amendment for third reading debate. Had he not been denied his right to put his amendments individually in committee, they could have been looked at, one at a time, in a forum that provided an opportunity for appropriate discussion, among those who had heard the testimony of the witnesses, with a vote and a determination.

**Senator Angus:** Hear, hear!

**Senator Cochrane:** At third reading in this chamber, Senator Tkachuk could only put one amendment, and he chose to assemble a number of the amendments he had planned for committee consideration into one single package. Unfortunately, as a result, this could lead some senators to vote against a package because of a single element, when in reality they might find the remainder perfectly acceptable.

With this in mind, I would draw the attention of honourable senators to the portion that specifically allows for the creation of a separate category of regulations for large industrial emitters. Although I know a similar provision in the House of Commons found some favour in a different context, this might have a differential impact on an energy-producing province like mine, Newfoundland and Labrador.

Accordingly, I move, seconded by Senator Angus, that the motion in amendment be amended by deleting paragraph (c) and re-lettering paragraphs (d) to (g) as paragraphs (c) to (f).

**The Hon. the Speaker:** Honourable senators, it is moved by the Honourable Senator Cochrane, seconded by the Honourable Senator Angus, that the motion and the amendment be amended by deleting paragraph (c) and re-lettering paragraphs (d) to (g) as paragraphs (c) to (f). Is there debate?

**Some Hon. Senators:** Question!

**The Hon. the Speaker:** Are honourable senators ready for the question? Is Senator Angus rising to speak?

**Hon. W. David Angus:** Honourable senators, I am pleased to second Senator Cochrane's amendment to the motion in amendment proposed last week by Senator Tkachuk. I offer the following comments in support of the amendment of Senator Cochrane.

Let me say, first, honourable senators, I am not a happy camper when it comes to Bill C-288. Honourable senators know well that I deplore the events that took place at the Standing Senate Committee on Energy, the Environment and Natural Resources at the time this bill was rushed through clause-by-clause study. As I indicated at the time, I believe my rights as a senator were substantially violated on that occasion and that the whole travesty constituted an abuse of the process of this place. It is shenanigans such as those that cast the Senate and all of us — and I submit this most sincerely, honourable senators — in a poor light vis-à-vis the Canadian public. Is it any wonder there is such an outcry for Senate reform in this great land of ours?

On Bill C-288 itself, and quite apart from its merits as good or bad public policy or as good or bad proposed legislation, I continue to be an unhappy camper. Climate change is such a critical issue — perhaps the most critical issue of the day — not only here in Canada but globally. All we have to do is look at the front pages of all the periodicals. *The Economist* today issued a 15-page report entitled “Cleaning Up” on climate change and the G8 summit in Berlin. This is a very big issue facing all of mankind.

• (1540)

It makes me unhappy to see a bill such as this being debated here in this marginal fashion. The issue of climate change concerns us all deeply and deserves better treatment.

Bill C-288, a private member's bill from the opposition side, orders the Conservative government — also known as Canada's new government — to meet certain global climate change obligations stipulated in the Kyoto Protocol, a protocol signed by the Liberal Chrétien government in December 2002 but never implemented in Canada via appropriate domestic implementation legislation by either the Chrétien or the Martin Liberal governments.

Why was Kyoto not implemented, honourable senators? Why are opposition Liberals now trying to do indirectly what they refused and/or failed to do directly in government? I believe, as my colleague Senator Cochrane suggested, that it is because they are playing questionable political games trying to embarrass Canada's new government and to side-track it from its own enlightened, progressive, realistic, magnificent and workable climate change agenda.

A useful clue, I suggest, honourable senators, can be found in the words of former Prime Minister Jean Chrétien's ex-chief of staff, the legendary Eddie Goldenberg, who said and wrote: “When we signed Kyoto, it was not to meet the targets. We knew they were not achievable. Rather, it was to bring attention to the important issue of climate change.”

Honourable senators, there you have it.

On December 17, 2002, Canada's government signed the Kyoto Protocol. The Kyoto Protocol officially came into force in February 2005, following ratification by Russia in November 2004. Having come into force, the Kyoto Protocol stipulated targets for various of the developed nations to reduce their greenhouse gas emissions to certain levels below 1990 levels. In the case of Canada, it was stipulated to be 6 per cent below

1990 levels. Yet, today, levels are 35 per cent higher rather than 6 per cent lower. As Senator Cochrane has said, we would have to reduce by between 30 and 35 per cent in a short time. This is a far cry from achieving the Kyoto targets.

In May 2007, Environment Canada submitted its annual national greenhouse gas inventory for 2005 to the United Nations Framework Convention on Climate Change. The report indicates that there was almost flat growth in greenhouse gas emissions from 2003 to 2005, but that greenhouse gases are still over 30 per cent higher than our Kyoto targets. The report shows that the slow-down in greenhouse gas emissions growth appears to have been the result of action taken by the provinces which reduced coal-fired electricity and increased nuclear and hydro electricity generation.

Honourable senators, let us be realistic. As of December 2006, a total of 169 countries and other governmental entities had ratified the agreement. However, notable exceptions include our good neighbour to the south, the United States, and our ally and partner in many ventures, Australia. Some countries, such as India and China, are exempt under the protocols, despite their huge populations. All in all, the countries that did accept targets under Kyoto account for less than 30 per cent of present-day global emissions.

Although Canada is a signatory, we were told by legal experts at the Energy Committee that without Canadian implementation or domestic legislation this agreement is not legally enforceable in Canada.

Ms. Collins, assistant professor at the University of Ottawa stated:

If there is no domestic legislation, the international legal obligation exists, and Canada would be in violation of that. However, it would not be justiciable in Canada. In other words, we cannot take the treaty to court and hold the government accountable. We cannot take the treaty to court against emitters, et cetera.

In Canada, the question is, when can we take a legal obligation to court, and the answer is, when it has been implemented in domestic legislation.

That being said, once legislation such as Bill C-288 is adopted by both Houses, Canada will have no option other than to comply with the Kyoto Protocol and reducing Canada's emissions to 6 per cent below the 1990 level. This would mean that Canada would have to reduce its emissions by more than 30 per cent for the 2008-2012 compliance years.

Honourable senators, if there were a magical solution, and if it were easy, Canada would have reduced its emissions a long time ago. However, the fact is that emission reductions can only be achieved effectively and sustainably through technological innovation and consequential investments in capital. Corporate Canada needs to invest in research and development and the Government of Canada needs to continue to implement smart financial incentives for Canadian companies to do just that. Certain technological innovations can be achieved quickly, but others can take years to develop, perfect and commercialize.



Honourable senators, it has been very interesting to observe the change in this place over the past several years. I do not think it is an exaggeration to say that we have all become green. I, personally, have come full circle. I now recycle at home, where we do everything possible to meet the One-Tonne Challenge. Like most senators, I understand the importance of a clean and sustainable environment.

Most Canadians have been overwhelmed in the last years with the scientific evidence that has been forthcoming in a user-friendly and understandable way. The problem exists; the science is real. Many Canadians have observed the climatic change in our great and vast North and its impact on the way of life of our native peoples.

I am always fascinated by Senator Adams' tales from his home in the North. He recently told us that the people there have a habit of tying their husky dogs to trees just above the high tide line. However, because of the changes in the melting this year, 21 Husky dogs, I believe it was, drowned. These people are not negligent with their dogs. It is essential to their lives to have these dogs. The speed with which the changes are happening is staggering, and we must do something about it.

Most Canadians sympathize with our struggling farmers from coast to coast who are dealing with drought and extreme weather patterns. I do not think there is an issue about the extent of the problem; the issue is how we deal with it.

I remember the great Right Honourable John George Diefenbaker beset by a revolution led by our dear friend, the late Dalton Camp, in the Chateau Laurier. He stood there and said, "I am a big game hunter and when you are hunting big game you do not get sidetracked by rabbit tracks, like you." I believe Bill C-288 would have the effect of sidetracking Canadians with rabbit tracks.

• (1550)

**Some Hon. Senators:** Hear, hear.

**Senator Angus:** We want to hunt big game, we want to reduce greenhouse gas emissions and we want to protect our children and grandchildren and the next generation from the evils.

**Senator Smith:** I want to know where you stand.

**Senator Angus:** I strongly believe that to achieve real improvements in our environment, Canada must invest heavily on an urgent basis in the development of innovative green technologies, as Senator Cochrane has said. Through green technologies Canada can change the way it does business and have a significant impact on reducing pollutants and greenhouse gases. By aggressively exporting its new green technologies to nations around the world, Canada could emerge as a champion of the environmental cause and perhaps regain the prestigious international standing we once enjoyed but no longer enjoy on the environment.

Even in the last three or four years, when we were on the other side of this chamber, I used to be the senator of my party that would question the government when the annual or quarterly reports of the Commissioner of the Environment would come out. I can remember that each year I was quite startled. We started

with the ranking of number 4 in the OECD, on a certain list of criteria as to our compliance with good behaviour in the environment. Gradually the standing got up to 28 out of 29 OECD countries. It is a shocking display and I am fairly sad about that standing.

**The Hon. the Speaker:** I regret to advise the honourable senator that his time has elapsed.

**Some Hon. Senators:** More, more!

**The Hon. the Speaker:** Will honourable senators allow Senator Angus to continue for five minutes?

**Hon. Senators:** Agreed.

**Senator Angus:** Honourable senators, Bill C-288, on its face, is a tiny little bill; it appears to be a simple bill; it purports to oblige our government, our new government, to come up with a plan for Canada to achieve these Kyoto targets, which I say are unrealistic, within 60 days. However, it is not a simple bill. When drilling down and examining it thoroughly, we find the potential negative economic consequences of this bill are tremendous. They amount to the billions of dollars and are capable of doing irreparable damage to the present fairly robust Canadian economy.

The members and senators supporting this bill will tell say that it is needed to reduce greenhouse gas emissions in Canada. My response to this argument, based on the evidence that we have heard to date in the committee, is the following: This bill simply and clearly is not the way to go.

**Senator Robichaud:** I am surprised.

**Senator Angus:** Encouraging innovation and the advancement of technology by our Canadian companies investing in research and development and smart financial incentive is the way to go, honourable senators. That is the rational and realistic way to go. Let us make our Canadian companies stronger, not weaker, by forcing them to buy up international carbon credits. Instead, let Canadian companies invest in research and development in new high tech and environment-friendly capital equipment.

Honourable senators, let us keep our hard-earned Canadian dollars in Canada to support our economy and to expand good, solid Canadian investments. Let us ensure our Canadian companies are better than the competing foreign companies. Let us ensure that our companies benefit from a technological comparative advantage and let us support research and development in Canada in exciting new technology to improve the environment.

Honourable senators, I earnestly believe — Canada's new government believes as well I might add — that there are better and smarter ways of reducing greenhouse gas emissions than Bill C-288. There are better ways of enticing our corporations to control pollution than via Bill C-288.

**Senator Mitchell:** Name some. Even one would be good.

**Senator Angus:** If I had more than five minutes, I would list 500.

Honourable senators, as you now know, the Standing Senate Committee on Energy, the Environment and Natural Resources, through deplorable tactics and behaviour by certain Liberal senators, was unable to hear all the witnesses who were ready to testify against this bill. The committee did hear from a few witnesses and Senator Cochrane quoted their evidence at length.

Therefore at this stage, honourable senators, I thank you for giving me some extra time. I would like to say again that I wholeheartedly support the Senator Cochrane's sub-amendment.

**Hon. Consiglio Di Nino:** Honourable senators, I wish to make some brief comments on this sub-amendment. I am principally motivated by the exchange that took place last week on this debate between Senator Tkachuk's comments and Senator Mitchell's response. I found Senator Mitchell's very spirited response to Senator Tkachuk's speech, although entertaining, full of political rhetoric to which I would like to make some brief comments.

**Senator Cools:** Good stuff.

**Senator Di Nino:** Let me begin by saying that this Conservative government was elected to implement its agenda, not the failed ideas of the previous government.

**Some Hon. Senators:** Hear, hear.

**Senator Di Nino:** I would like to remind all honourable senators that the good people of Senator Mitchell's province, in 28 of 28 ridings, democratically chose the Conservative government's agenda over that of Senator Mitchell's party. Although it may surprise some colleagues because their party's record on keeping promises is spotty at best, those Conservative men and women who were the choice of Albertans and joined by others from all parts of Canada will try very hard to implement this government's agenda even against the obstructions placed in its way by some honourable colleagues in both chambers.

Honourable senators, the Senate traditionally has been a much less partisan body for thoughtful and balanced debate than the other place. It is, after all, the chamber of sober second thought. Regrettably, the intervention of Senator Mitchell's recent remarks on Bill C-288, to me at least, represents the opposite. His speech contained insulting and thoughtless political jibes, which brought the debate down to a level we should avoid and I will do my best to do so.

The fact is, honourable senators, this government has been straight up with the Canadian people in telling them that a decade of Liberal inaction on the climate change file has put Canada in an impossible position. When Senator Tkachuk spoke last Thursday he included quotes from a very apt piece of the May 14 issue of *Maclean's* about Al Gore's comments on climate change.

**Senator Mitchell:** That is an elevated source.

**Senator Di Nino:** If the honourable senator were to listen he might learn something.

For the record, I would like to add some additional quotes.

• (1600)

**Senator Campbell:** Is it peer-reviewed?

**Senator Di Nino:** Shall I sit down so you can talk? You will have a chance as soon as I am finished.

For the record, I would like to add some additional quotes from the same article:

The plan released by Environment Minister John Baird last month includes almost all the remedies Gore himself calls for. Ottawa has already introduced tax breaks for public transit. Now we have rebates for fuel-efficient cars with new standards on the way. There will be carbon sequestering, a new technology fund and a ban on incandescent bulbs.

You asked what we will do. These are a few ideas. We will have more as time goes on.

I continue to quote:

Baird's plan is also notable for its focus on reducing air pollution, which arguably has a bigger negative impact on Canadians today than global warming ever will. Taken as a whole, the plan represents an effective compromise between economic sanity and environmental necessity.

Gore's fascinating reinvention of himself from earnest but boring politician to environmental crusader is a notable achievement. If he has made himself rich in the process, we applaud that as well. But during this transformation, Gore appears to have forgotten the art of realistic policy-making, and has ceased to tell his audience the whole truth.

Speaking of the truth, an editorial in yesterday's *The Globe and Mail*, Monday, June 4, dealing with the G8 summit stated: "Canada has the opportunity and the obligation to tell the truth to those nations. . ."

I think that is worth repeating.

Canada has the opportunity and the obligation to tell the truth to those nations: that it cannot meet its Kyoto commitments because the treaty's terms are stacked against energy-exporting nations.

As Canadian officials noted yesterday, any post-Kyoto deal must consequently recognize that Canada is unique in both being an economic powerhouse and an emerging energy superpower.

Also for the record, honourable senators, a report from the World Wildlife Fund for Nature published yesterday in *The Globe and Mail* pegs Canada with the worst record among the G8 countries in addressing climate change between 1990 and 2005. Emissions in this country in that period of time increased by 27 per cent. It is also heartening to read in *The Globe and Mail*



today that Canada and Germany have reached a certain agreement on long-term goals. I would like to quote Chancellor Merkel's comments. She said:

We agree on the fact that we need reduction targets. . . . Our objectives are worded in somewhat different kind of language, but I think at the end of the day we share this goal.

Honourable senators, Bill C-288 represents the previous government's failure to keep its promise to Canadians, even though some honourable senators do not like to be reminded of it. It is an inconvenient truth. The official opposition is trying to score political points by deflecting responsibility for their failure to this government. It will not work. The Harper government has been quite clear on this issue all along. It will fix the problem in a way that will balance the economic reality of today with the environmental health of our country. It will keep its promise to the people of Canada.

Honourable senators, I would like to adjourn the debate in my name for the remainder of my time.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** No.

**Some Hon. Senators:** Yes.

**The Hon. the Speaker:** All those in favour of the motion will signify by saying "yea."

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** All those opposed to the motion will signify by saying "nay."

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my view the "nays" have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** Is there agreement from the whips?

There will be a one-hour bell. The vote will take place at three minutes after 5. Call in the senators.

Does the chair have permission to leave?

**Hon. Senators:** Agreed.

• (1700)

Motion negatived on the following division:

#### YEAS THE HONOURABLE SENATORS

Andreychuk  
Angus  
Cochrane  
Comeau

Meighen  
Murray  
Nancy Ruth  
Nolin

Di Nino  
Gustafson  
Johnson  
Keon  
LeBreton

Oliver  
St. Germain  
Stratton  
Tkachuk—17

#### NAYS THE HONOURABLE SENATORS

Bacon  
Banks  
Bryden  
Callbeck  
Campbell  
Carstairs  
Chaput  
Cook  
Corbin  
Cordy  
Cowan  
Dallaire  
Dawson  
De Bané  
Downe  
Dyck  
Fairbairn  
Fox  
Fraser  
Furey

Gill  
Harb  
Hervieux-Payette  
Lavigne  
Losier-Cool  
Lovelace Nicholas  
Merchant  
Milne  
Mitchell  
Munson  
Pépin  
Peterson  
Phalen  
Ringuette  
Robichaud  
Rompkey  
Smith  
Stollery  
Tardif  
Watt—40

#### ABSTENTIONS THE HONOURABLE SENATORS

Cools

Prud'homme—2

**Senator Di Nino:** Honourable senators, I wanted to express my disappointment that I was denied the opportunity to continue the debate. I wanted to tell you why I wanted to wait.

First, I had not really seen the actual sub-amendment, but there is a great deal of discussion and negotiations going on right now with the G8. I quoted from one small part of it today about the positions of Germany and Canada coming closer together. Certainly, there are issues dealing with China, Russia, India and Brazil. We have some serious environmental problems with which those countries have to come to terms. More important, I was looking forward to additional accommodations being made between Canada and some of the other countries participating in these meetings because I believe that Prime Minister Harper's position will be a much more attractive position to many of the countries with which he is negotiating and dealing right now. That is why I had asked for a postponement for a day or so, but I was denied and I am disappointed.

• (1710)

**Some Hon. Senators:** Question!

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Some Hon. Senators:** No.

**Some Hon. Senators:** Yes.

**The Hon. the Speaker:** The question for the house is the motion in amendment moved by Senator Cochrane, seconded by Senator Angus, that the motion in amendment be amended by deleting paragraph (c) and re-lettering paragraphs (d) to (g) as paragraph (c) to (f).

Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** No.

**The Hon. the Speaker:** I will put the question formally: All those in favour of the motion will signify by saying "yea."

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Those opposed to the motion will signify by saying "nay."

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion the "nays" have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** Call in the senators. Do the whips have an agreement as to the time of the bell?

**Hon. Terry Stratton:** According to rule 67(1) and 67(2), I would like the vote deferred.

**The Hon. the Speaker:** Honourable senators, this is a motion. It is not an adjournment motion. It is subject to deferral and it is deferred until tomorrow at 5:30 p.m. Is that understood, honourable senators?

**Hon. James S. Cowan:** The rule refers to 5:30 tomorrow, but we have committees regularly scheduled. Is it being proposed that committees be cancelled?

**Senator Stratton:** The vote will be at 5:30. The committees can meet at 4 p.m. and adjourn to come to vote and then go back.

**Senator Cowan:** Is the honourable senator saying that the Senate would adjourn at 4 p.m., committees would meet and the vote would be at 5:30?

**Senator Stratton:** Yes. What is wrong?

**The Hon. the Speaker:** The chair would like to have the assistance of honourable senators. We have a house order that we adjourn at 4 p.m., but if a vote is called, as it has been called, and deferred to 5:30, it means we cannot adjourn until that vote takes place, unless there is an agreement between the sides.

The rule is clear. I will go over it again. When a vote is deferred to a Wednesday, it is at 5:30, according to the rules, but because there is a house order that we normally adjourn at 4 p.m., we will not adjourn at 4 p.m. because the calling of a vote trumps that house order at 4 p.m. That is the case unless the two sides agree.

**Senator Stratton:** Is Senator Cowan in agreement to have the house adjourn at 4 p.m. for regular committee meetings and come back for the 5:30 vote?

**The Hon. the Speaker:** I will read from the *Journals of the Senate*:

... where a vote is deferred until 5:30 p.m. on a Wednesday, the Speaker shall interrupt the proceedings, immediately prior to any adjournment but no later than 4 p.m., to suspend the sitting until 5:30 p.m. for the taking of the deferred vote, and that committees be authorized to meet during the period that the sitting is suspended.

Effectively, then, we will vote at 5:30 and committees will sit from 4 p.m. However, there is the question of how much time will we give the honourable senators, to get over here for the vote at 5:30 if they are having meetings in buildings like the Victoria Building. We normally allow half an hour, so will the meetings of the committees taking place in the Victoria Building cease around five o'clock so honourable senators can get to the chamber?

This is why I invite the assistance of the house and, in particular, the two chief whips.

**Senator Stratton:** I would suggest that, as originally suggested, we have the vote at 5:30. The chamber suspends at 4 p.m., committees meet until 5:15, senators come for the vote at 5:30 and then go back to their meetings.

**The Hon. the Speaker:** Is it the will of the house that there be only a 15-minute bell?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** There will be a 15-minute bell, and those who are at committees in far away places understand the bell is only ringing for 15 minutes. The vote is at 5:30.

**Hon. Anne C. Cools:** Honourable senators, my understanding is that at 4 p.m. the Senate should adjourn normally. Therefore, a decision would have to be taken to alter that adjournment into a suspension. What is the rule number, Your Honour? I am not going to agree to suspend.

**The Hon. the Speaker:** To help the honourable senator, it was the decision taken on April 6, 2006, when we adopted the 4 p.m. rule.

**Senator Cools:** I know that, but what is the rule number?

**The Hon. the Speaker:** It is not in the rules. It is a decision of the house.

**Hon. Lowell Murray:** There is one rule that I would draw to your attention, rushing in where angels fear to tread. It is rule 66(3):

(3) When, under the provisions of any rule or order of the Senate, the Speaker is required to interrupt the proceedings for the purpose of putting forthwith the question on any business then before the Senate or when a standing vote has been deferred pursuant to rule 67, the Speaker shall interrupt the said proceedings not later than fifteen minutes prior to the time provided for the taking of the vote and order the bells to call in the Senators to be sounded for not more than fifteen minutes immediately thereafter.



**Hon. Gerald J. Comeau (Deputy Leader of the Government):** We would like to refer back to the house order which the Speaker just referred to. It is in *Debates of the Senate*, issue number 3, April 5, 2006:

(c) where a vote is deferred until 5:30 p.m. on a Wednesday, the Speaker shall interrupt the proceedings, immediately prior to any adjournment but no later than 4 p.m., to suspend the sitting until 5:30 p.m. for the taking of the deferred vote, and that committees be authorized to meet during the period that the sitting is suspended.

We do not need to have any bells. It is a house order.

• (1720)

**The Hon. the Speaker:** Honourable senators, just to be clear, prior to four o'clock tomorrow afternoon I shall rise to suspend the sitting, the bells will ring at 5:15 and the vote will be held at 5:30 p.m.

## CONSTITUTION ACT, 1867

### REPORT OF SPECIAL COMMITTEE ON MOTION TO AMEND—MOTION IN AMENDMENT— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Hays, seconded by the Honourable Senator Fraser, for the adoption of the second report of the Special Senate Committee on Senate Reform (*motion to amend the Constitution of Canada (western regional representation in the Senate)*), without amendment but with observations, presented in the Senate on October 26, 2006;

And on the motion in amendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Campbell, that the second report of the Special Senate Committee on Senate Reform be not now adopted but that the motion to amend the Constitution of Canada (western regional representation in the Senate), be amended as follows:

(a) by replacing, in the third paragraph of the motion, the words "British Columbia be made a separate division represented by 12 Senators;" with the following:

"British Columbia be made a separate division represented by 24 Senators;"

(b) by replacing, in clause 1 of the Schedule to the motion, in section 21, the words "consist of One hundred and seventeen Members" with the following:

"consist of One hundred and twenty-nine Members";

(c) by replacing, in clause 1 of the Schedule to the motion, in section 22, the words "British Columbia by Twelve Senators;" with the following:

"British Columbia by Twenty-four Senators;"

(d) by striking out, in clause 2 of the Schedule to the motion, in section 27, the words "or, in the case of British Columbia, Twelve Senators,"; and

(e) by replacing, in clause 2 of the Schedule to the motion, in section 28, the words "exceed One hundred and twenty-seven." with the following:

"exceed One hundred and thirty-nine."—(*Honourable Senator Fraser*)

**Hon. Joan Fraser:** Honourable senators may recall that last week I promised to speak to this motion this week, and I should like to do so now, before, as seems likely, we again become consumed in this chamber with consideration of matters relating to Bill S-4. This motion is very different from that, but it is equally important.

I wish I could support this motion; I truly do. I have agonized at some length about it because I think it was brought forward for good reasons. I believe that Senators Austin and Murray had the best possible reasons for putting forward this motion. We know how strong sentiment is in the West about a perceived lack of proper representation in the Parliament of Canada and, in particular, in the Senate of Canada. That grievance is real and it is, in many ways, entirely legitimate. The Fathers of Confederation could not have dreamed of the strength, numbers, weight and importance — economically, in particular, but not only economically — that the West would have at the beginning of the 21st century.

If the Fathers of Confederation had any inkling at all, they probably would have made provision in the Constitution for adjustments to be made as time went forward, but they did not. Therefore, we have the situation that has been so eloquently described by Senators Austin, Murray, Hays, Tkachuk, Carney and others of a huge region of the country where large numbers of people profoundly believe that it is wrong that their per capita representation in the Senate should be lower than the per capita representation in the Senate of other Canadians.

I know that even if the Senate adopts this motion it will not take effect. All it will do, and I believe all it was designed to do, is prompt negotiations, and it is not at all inappropriate to try to prompt negotiations when a substantial part of the country feels a substantial sense of grievance about the basic constitutional arrangements of the country. That is an appropriate thing to try to do. If the Senate were to adopt this resolution, it would demonstrate that we are collectively mindful of regional concerns and regional grievances, something we all take very seriously as our duty to be mindful of.

These are all good reasons to vote for this motion. However, I personally cannot do so. I have come to that conclusion with much regret and after much reflection. I cannot vote for the motion because, in addressing the real grievances of one group of Canadians, it overlooks an even more serious long-standing injustice done in the same section of the Constitution to another group of Canadians, inhabitants of the entire northern half of my province, most of whom are Inuit — most, but not all.

I shall now have to speak about the arcane, for most of us, subject of the senatorial districts in the province of Quebec, because that is what all of this hangs upon.

Honourable senators will recall that at Confederation, when each region was given 24 senators, the region of Quebec, unlike the other regions, was further divided into 24 districts — which are set out in article 22(4) of the Constitution Act, 1867.

The principal reason that I have been able to determine for the establishment of these districts was for the protection of a minority in Quebec — the protection of my minority in Quebec, English-speaking Quebecers. At the time, people often spoke about Protestants rather than about anglophones, which is a more recent word, but that is who they were talking about, the English-speaking residents of Quebec.

The Fathers of Confederation, English and French alike, agreed that it was important that that minority have some security that its interests would always be represented in the Senate. In fact, they had various concerns. They gave us education rights and language rights in the courts and legislature of Quebec. They took our needs and concerns seriously.

It is not the fault of the Fathers of Confederation that, in Quebec, as in the West, there has been massive demographic change. At the time that the districts were set out, they corresponded to the existing electoral districts in Quebec — the electoral districts as they represented the population in the 1860s. There have been huge population shifts since then, with the result that, for example, my district has between 60,000 and 100,000 people. The district of Senator Angus encompasses closer to 1 million people. These are the vagaries of being stuck with a system established in the 1860s when people could not know what the country would look like 140 years later. However, there the districts are, and, by law, according to the Constitution of Canada, every senator from Quebec represents one of those districts. We must own our property in that district or be resident in it.

One may think that the districts have become a bit of a polite fiction, rather like peerages in the House of Lords. I believe, for example, that Lord Black of Crossharbour took the title of his peerage from a tube station, or so the gossips have it. He does not claim to be the proprietor of the tube station.

In the case of the Quebec districts, however, no matter how much the reality may have changed, they remain there. They are set out in the Constitution of Canada.

There is an anomaly that I had not realized until recently. Senator Rompkey, in particular, was quite interested when I drew to his attention the fact that since these districts were set up in the 1860s and the Quebec-Labrador boundary dispute was only settled in 1927, one of the Quebec districts, *les Laurentides*, actually officially includes a good-sized chunk of Labrador. We should obviously be paying attention to this and settling it, but we are not settling it.

• (1730)

That is not the most serious anomaly. The most serious anomaly is that when those districts were established in the 1860s, Quebec was only half the size that it is today. The northern half

of Quebec was not part of Quebec so the entire northern half of Quebec is without a senatorial district. The line runs from halfway up the western border between Ontario and James Bay and then swoops up on the diagonal to Labrador. If you know anything about the province of Quebec, you know that a gigantic territory is not included in the senatorial districts. The residents of that territory are the only Canadians who do not have a senator. In every province and territory outside of Quebec, every senator represents every person in that province or territory. By law, Senators from Quebec represent their districts.

We all know that Senator Watt is in practice the representative of the people of that region and so is Senator Gill, but Senator Gill has a district of his own. Senator Watt, however, because he is Inuit and so many people from that region are Inuit, has made it one of his missions in this place to represent them, and he has done a marvellous job of it. The Inuit people from that region are fortunate to have Senator Watt as a representative. As it happens, Senator Watt's true district is Inkerman, in southwest Quebec. Take a line from Ottawa and head northwest and you will be in Senator Watt's district in pretty short order.

The districts no longer have the importance they had long ago, and for a long time I thought I could support Senator Murray's and Senator Austin's motion in spite of this anomaly. The more I thought about it, the more I thought that such a choice would be wrong for me. I sit in this place as a representative of a community that was taken into account when the Fathers made the great bargain of Confederation and when they spent so many hours and days devising the Senate of Canada. I cannot in good conscience vote in favour of a motion that ignores another even more vulnerable minority in my province of Quebec.

I have been rereading the debates on this motion and two quotations moved me when I heard them the first time and moved me again when I reread them. I would like to leave them with honourable senators. One is from Senator Watt, on June 28, 2006, when he said:

The Aboriginal people in this country are under-represented. They happen to be the first people to occupy this land, the great land we call Canada today.

Senator Watt went on to say I believe our people have contributed to helping the newcomers in many different ways: safeguarding them, directing them and helping them to survive. I think it is only fair that they return the respect.

On December 11, 2006, Senator Hubley, in a most eloquent speech that many of us will remember, said:

... the promise of the Senate to provide an effective voice for a diversity of regional and other interests. It is the promise of the Senate to represent fairly the interests of women, racial and linguistic minorities and our Aboriginal peoples.

Honourable senators, while Lord knows I sympathize with the grievances of the West, I personally cannot support this motion.

On motion of Senator Cowan, debate adjourned.



## STUDY ON RECENT REPORTS AND ACTION PLAN CONCERNING DRINKING WATER IN FIRST NATIONS' COMMUNITIES

### REPORT OF ABORIGINAL PEOPLES COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the eighth report of the Standing Senate Committee on Aboriginal Peoples entitled: *Safe Drinking Water for First Nations*, tabled in the Senate on May 31, 2007.—(Honourable Senator St. Germain, P.C.)

**Hon. Gerry St. Germain** moved the adoption of the report.

He said: Honourable senators, two months ago the Senate mandated the Aboriginal Peoples Committee to examine and report on recent work completed on drinking water in First Nations' communities. Specifically, the committee examined the November 2006 *Report of the Expert Panel on Safe Drinking Water for First Nations*; the 2005 *Report of the Commissioner of the Environment and Sustainable Development on Drinking Water in First Nations Communities*; and the Department of Indian Affairs and Northern Development's *Plan of Action to Address Drinking Water Concerns in First Nations Communities*. In addition, honourable senators, we heard from the Assembly of First Nations, who provided testimony addressing their review of the status of safe drinking water in First Nations communities.

One of the essentials of daily life is access to clean drinking water. Canadians assume that the water they drink is of high quality; however, not all Canadians can be sure their drinking water is safe and this includes nearly 500,000 Canadians living in First Nations communities.

Governments have long known that the majority of water systems in First Nations communities are or have been susceptible to health risks. In 1995, an assessment carried out by the Department of Indian Affairs and Northern Development and Health Canada found that about 25 per cent of the water systems on reserves pose potential for health and safety risks to the First Nations people in the affected communities.

In 2001, a follow-up assessment revealed that almost three-quarters of the drinking water systems on reserve pose significant risk. Most recently, in March 2007, the Department of Indian Affairs and Northern Development released a progress report on First Nations drinking water indicating that the water systems of 97 First Nations communities are classified as high risk. In addition, DIAND's 2006 *Protocol for Safe Drinking Water for First Nations Communities* requires that every First Nations community have a certified water systems operator. Currently, only 37 per cent of water operators are certified. Between 1995 and 2003, \$1.9 billion was spent to build and operate drinking water and sewer systems in First Nations communities. In addition, another \$1.6 billion will be invested between 2003 and 2008.

These investments have resulted in reducing the number of identified high-risk drinking water systems from 193 to 97 in the past year. However, providing safe drinking water is not just a money issue, honourable senators. First Nations, unlike other communities, have neither laws nor regulations governing drinking water. Provincial jurisdiction over drinking water does not extend to reserve lands. In 2005, an audit report published by

the Commissioner of the Environment and Sustainable Development found that certain important elements for the provision of safe water were missing. On-reserve residents did not have an approval and licensing processes for water treatment plants and were without ongoing monitoring. The reserves were without compliance and enforcement mechanisms and public reporting requirements. Furthermore, no one was legally empowered to ensure that all required drinking water tests were duly carried out. The report revealed the many deficiencies in the design and construction of the water systems.

• (1740)

Witnesses testifying before the committee all agreed in principle on the need to establish a regulatory framework to govern the provision of drinking water in First Nations communities. However, witnesses emphasized the importance of ensuring that community capacity is addressed as a precondition to legislation. Regulatory standards without the physical and human capacity to meet those standards are unlikely to improve the quality and delivery of drinking water on reserve.

The committee is equally concerned that the department is not able to identify the existing physical and human resource needs for the delivery of safe water on reserves, nor is it able to identify deficiencies in those to any great degree of certainty. Subsequently, Parliament and Canadians are not getting full and accurate information about the quality and safety of First Nations drinking water.

The report recommends that the department provide for a professional audit of water system facilities, as well as an independent needs assessment of both the physical assets and the human resource needs of individual First Nations communities in relation to the delivery of safe drinking water. The report also recommends that the department undertake a comprehensive consultation process with First Nations communities regarding legislative options, including those set out in reports of the expert panel on safe drinking water and the AFN, with a view to collaboratively developing such legislation.

Honourable senators, the issue here is to militate against the occurrence of another Kashechewan incident. Failure to provide safe drinking water to First Nations is definitely not an option.

The committee hopes that the Senate will send this report to the government for their consideration of the two essential recommendations concerning the delivery of safe drinking water to First Nations communities.

Honourable senators, I thank the members of the committee who worked on this to provide these recommendations. This, like the other studies we recently reported, is very important. It is essential for a quality lifestyle for our First Nations people. I would like to see this report responded to as quickly as possible by the government and delivered as quickly as possible to the government side.

**Hon. Tommy Banks:** Will the honourable senator accept a question?

**Senator St. Germain:** Yes.

**Senator Banks:** The matter to which this excellent report refers has been referred to in two other places. First, a report entitled *Water in the West* by the Standing Senate Committee on Energy, the Environment and Natural Resources, which was released just over a year and a half ago; and, second, by Senator Grafstein's water bill. Has the honourable senator considered the way in which Senator Grafstein's bill, if it were to become an act of Parliament, would beneficially affect the situation to which he refers?

**Senator St. Germain:** There is no doubt that Senator Grafstein has put a significant amount of effort into the study of water. We were studying the recommendations and trying to monitor whether the recommendations brought forward by the expert panel and the department and various other entities dealing with this are being dealt with in a proper manner. We did not have the opportunity to review Senator Grafstein's bill, not that it would be ignored, and hopefully the department is taking this into consideration. I can certainly assure the honourable senator that I will make the Minister of Indian Affairs aware of Senator Grafstein's efforts as well as the report from the Energy Committee so that, as we go forward, we take all the tools required and all the information, which I am positive is good information, combine it together and hopefully come to a resolution of this critical situation.

On motion of Senator Tardif, debate adjourned.

## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

### SEVENTEENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventeenth report of the Standing Committee on Internal Economy, Budgets and Administration, (committee budget), tabled in the Senate on May 31, 2007.—(*Honourable Senator Furey*)

**Hon. George J. Furey:** Honourable senators, I move the adoption of the report.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

## STUDY ON INTERNATIONAL OBLIGATIONS REGARDING CHILDREN'S RIGHTS AND FREEDOMS

### MOTION TO ADOPT REPORT OF HUMAN RIGHTS COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE —DEBATE CONCLUDED

The Senate proceeded to consideration of the tenth report of the Standing Senate Committee on Human Rights entitled: *Children: The Silenced Citizens*, tabled in the Senate on April 25, 2007.—(*Honourable Senator Andreychuk*)

**Hon. A. Raynell Andreychuk,** moved the adoption of the report.

She said: Honourable senators, before I make a few comments about the report, I wish to thank my deputy chairs, Senator Pearson and Senator Carstairs, and my incoming chair for their

continued support on this important topic of the Convention of the Rights of the Child. I would also be remiss if I did not mention Senator Munson, who gave us gender balance on our steering committee and has faithfully attended the meetings. The rest of the members I will not name, but they have contributed both their experiences and their various commitments to the field of children's rights.

I also wish to thank Laura Barnett, our researcher, for her extensive understanding of international law and her commitment to the cause of children. Vanessa Moss-Norbury and Josée Thérien, our clerks, have worked many hours to produce this report.

In late 2004, the Standing Senate Committee on Human Rights began an examination of Canada's international obligations with respect to the rights and freedoms of children. In particular, the committee was concerned with Canada's obligations under the United Nations Convention on the Rights of the Child and whether Canada's legislation meets our obligations under this convention.

From the outset, the committee reviewed Canada's international obligations with respect to children's rights and freedoms as a case study reflecting the broader implications of ensuring that domestic legislation and policies comply with Canada's international human rights obligations.

In terms of children's rights more specifically, the committee sought to answer the following questions: Is Canada implementing the Convention on the Rights of the Child in domestic law and policy and, if so, how? Are all children in Canada benefiting from the convention? Are specific groups of vulnerable children benefiting from it? Has the convention furthered federal, provincial and territorial policies for such children? Are the federal, provincial and territorial governments and society responding to the challenges confronting today's children?

The committee proceeded to evaluate obstacles to the protection of children's rights and freedoms as enunciated by the Convention on the Rights of the Child, looking at whether Canadian policy and legislation reflect the provisions of and are in compliance with international obligations under this international human rights instrument. It also looked at the role of Parliament within this framework.

The committee filed an extensive overview report in the Senate entitled *Who's in Charge Here?* I acknowledge the hard work, determination and support of Senator Pearson in its preparation.

• (1750)

The committee tabled its final report entitled *Children: The Silenced Citizens — Effective Implementation of Canada's International Obligations with Respect to the Rights of Children*, in this chamber. The report discussed Canada's approach to implementation of international law and, in particular, the Convention on the Rights of the Child.

The report focused on specific articles of the convention to highlight the ways in which children's rights have not been effectively implemented in Canada in so many ways. To rectify this situation, the report recommended a variety of measures and



mechanisms to ensure more effective implementation of the convention for Canada's approximately 7 million children, as well as proposing a new approach to how Canada deals with its signature, ratification and implementation of human rights treaties.

It is important to note that right from the beginning Canada played an important role with respect to the Convention on the Rights of the Child. Drafting of the convention took 11 years, from 1978 to 1989, during which time Canada worked hard at the drafting table and facilitated communication between over 40 countries with varying religious, ideological, cultural and political traditions.

Former Prime Minister Brian Mulroney was also significant in the adoption process, jointly initiating and co-chairing the World Summit on Children at the United Nations, in 1990, to encourage ratification of the convention and draft a 10-year plan of action for children.

Reinforced by such political will, the convention was ultimately adopted by the United Nations in November 1989, representing the first time that the needs and interests of children were expressly formulated in terms of human rights. The instrument captured the imagination of world leaders and was embraced with overwhelming enthusiasm by the entire world community. It is currently the most widely subscribed to international treaty in history, ratified by 193 nations. Canada was able to ratify the convention in December 1991, once all the provinces and territories signalled their support for the convention by sending letters of support to the federal government.

The convention contains three general principles to guide interpretation and implementation of its more specific articles: The principle of non-discrimination; the principle of the best interests of the child; and the right of the child to be heard. The convention contains numerous specific rights that deal with many aspects of children's lives, such as: The right to the protection from all forms of violence and to health and health services; the right to an education and an adequate standard of living; and the right to be protected from sexual exploitation. Many of these rights are progressive rights.

Embedded in the Convention on the Rights of the Child and other modern international human rights law is the rights-based approach, which emphasizes the fact that all rights are equal and universal and that all people, including children, are the subject of their own rights, and should be participants in development rather than objects of charity.

The rights-based approach places an obligation on states to work towards ensuring that all rights are being met. As such, the convention emphasizes the need to focus on children as individuals with their own set of rights. The idea is that children are not merely objects of concern to be protected, but are also to be recognized as persons in their own right. As such, they will also begin to understand their responsibilities in society.

Viewing children's rights within this framework means that children are afforded protection beyond the level of simple survival or basic needs, thus facilitating the creation of a

sustainable environment in which such rights can be protected in the longer term.

Noting these valuable rights and responsibilities enshrined in the convention, our committee looked at Canada's implementation of its international human rights treaties on a general level. What quickly became clear is that, traditionally, such treaties are rarely incorporated directly into Canadian law. Instead, they are indirectly implemented at the domestic level by ensuring that pre-existing legislation is in conformity with the obligations accepted in a particular convention. In addition, Parliament plays no role in ratification. Thus, international human rights treaties that are not directly incorporated into domestic legislation completely bypass the parliamentary process.

As a result of successive governments' approaches to international human rights treaties, the committee found that the UN Convention on the Rights of the Child is not solidly embedded in Canadian law, in policy or in the national psyche. Governments and courts use it only as a strongly worded guiding principle with which they attempt to ensure that laws conform rather than acting as if they are bound by it. Jurisdictional complexities, the absence of effective institutions, an uncertain approach to human rights law and the lack of transparency and political involvement indicate that the convention is being ineffectively applied in the Canadian context. There appears to be a strong disconnect between Canada's international obligations and domestic law.

There was a disturbing recurrence of testimony from witnesses across the country that Canada is a country whose actions do not live up to its reputation. Witnesses were critical of the perceived gap between the rhetoric and the reality of children's rights in Canada. While the government attempts to conform to the rights-based approach as enshrined in the convention in theory, many witnesses argued that it hesitates to be bound by it in practice. In government, even among those dedicated to protecting children's rights, knowledge of the convention is spotty at best.

The committee discovered that some government officials working towards the protection of children's rights seemed to operate in ignorance of the international tool at their disposal. In many respects the convention is simply not used as a means or framework to protect children's rights.

Throughout our hearings, we became aware that there is very little knowledge of the convention outside academic and advocacy circles. Numerous witnesses expressed concern about the lack of awareness in government, in Parliament, among the public, and among children of the Convention of the Rights of the Child.

In terms of concrete illustrations of how the convention does not appear to be effectively applied to improve children's lives in Canada, our committee members heard eye-opening testimony about children and youth whose futures were at risk. We heard stories about children who were being subjected to violence and abuse, who were being exploited sexually, who were tangled in the justice system and had nowhere left to turn. We heard about children with disabilities who were not receiving the services they need to grow to their full potential, immigrant children who were separated from their families and about children who were forced by the system to be on their own just when they were starting to put their troubled lives together.

Among all the themes discussed in our report, serious concerns about Aboriginal children in Canada were perhaps the most emphasized by witnesses. The committee heard that Aboriginal children make up one of the most marginalized and vulnerable categories of children in Canada, over-represented in a wide variety of areas. Although Canada consistently ranks among the top countries at the UN's Human Development Index, Canada's ranking drops to 78th when the index isolates the economic and social well-being of Aboriginal populations.

Aboriginal children are disproportionately living in poverty and involved in the youth criminal justice and child protection systems. Aboriginal children also face significant health problems in comparison with other children in Canada, such as higher rates of malnutrition, disabilities, drug and alcohol abuse and suicide.

• (1800)

Ultimately, as noted in a recent meeting by one Billie Schibler, Children's Advocate for the Province of Manitoba:

In Canada, we as a country are very clearly failing to protect our most vulnerable, failing to preserve our most precious and presumably cherished resource, our children. We are an advanced country. We have natural resources and we have brilliant leaders, but unless we can find success in ensuring a brighter future for our children, unless we can provide them with hope, unless we can start listening and hear what they are saying, we as a province are lost, we as a country have no future.

**The Hon. the Speaker:** We are at the 15-minute mark of your time, Senator Andreychuk. It is very close to six o'clock. At six o'clock, I must leave the chair unless there is agreement to not see the clock.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I hate to do this to my colleague, but if we agree to not see the clock, we are going to be staying here quite late tonight.

Therefore, as discussed with my counterpart on the other side, we would see the clock, we would ask the unanimous consent of this chamber to let all matters stand in their place on the Order Paper and we would adjourn for the evening. I believe that is still the position of our leadership on both sides, so I would ask that we let all matters stand in their place and wrap up for the day.

**Hon. Terry Stratton:** Senator Andreychuk has about two pages left of her speech. Would it be agreeable to both sides if we were to allow her to complete her speech and then rise?

**The Hon. the Speaker:** Does Senator Andreychuk have the agreement of the house for two more minutes?

**Hon. Senators:** Agreed.

**Senator Andreychuk:** I thank you, honourable senators, because it is important to talk about children and I appreciate that the Senate has understood that.

In our report, the committee emphasized that all levels of government across Canada have a responsibility and the capacity to protect children's rights. Certainly, there is a widespread recognition across government of the importance of children. Throughout its hearings, the committee was overwhelmed by the expressions of concern and care for children's rights in each jurisdiction. It is simply a question of how effectively governments are accomplishing this task.

What is needed to push both the issue and respect for the democratic process further is enhanced accountability, increased parliamentary and public input, and a more open approach to compliance that promotes transparency and enhances political will. In order to move the agenda toward resolving some of these issues, our committee made a number of concrete recommendations in the report. Among our committee's key recommendations was the need to ensure that the voices of Canadian children are heard in a meaningful way.

The right of children to participate and to be heard is an important political right. It is one of the most fundamental principles underlying the United Nations Convention on the Rights of the Child. Our committee heard over and over again how children and youth feel they are not consulted or that their views are discounted, often on matters that have a significant impact on their lives. Articles 12 to 15 of the convention stipulate that, in appropriate circumstances, the child has a right to be heard in matters that affect his or her well-being. Not only is this a right, it is an important part of effective decision and policy making.

Our committee heard from a wide variety of children who brought their perspectives forcefully to our attention. One youth noted:

The convention states that children have the right to their own opinions, but we are never encouraged to speak. If we do voice our opinions, chances are that our opinions will be discussed by policymakers who are unwilling to listen . . . . If you walk away with anything at all today, please walk away realizing that youth know what they want to see and know what they need to make a difference. It is a matter of implementation from others that trust that we know what we are doing.

Through our recommendations, the committee sought to strengthen the active involvement of children in all institutions and processes affecting children. Children's voices rarely inform government decisions, yet they are one of the groups most affected by government action or inaction. Children are not merely under-represented; they are almost not represented at all. Our committee strongly believes that children should be meaningfully consulted on all significant issues affecting their rights and lives.

Parents, educators and governments can help in addressing this problem by ensuring that children are involved and consulted on issues concerning them; by becoming aware of the convention's rights themselves — learning about their own rights and responsibilities, as well as those of children; by putting the convention into school curricula; by passing laws and developing policies that are sensitive to children's rights; and by ensuring that the political will exists and is acted on in order to ensure the



effective protection of children's rights. Our committee recommends that the federal government dedicate resources toward ensuring that children's input is given considerable weight when laws, policies and other decisions that have a significant impact on children's lives are discussed or implemented at the federal level.

Another of the committee's prime observations was that nobody is in charge of ensuring that the convention is effectively implemented in Canada, and political will is lacking. For Canada to claim that it fully respects the rights and freedoms of children, and to remain a human rights leader in the international sphere, it must improve its level of actual compliance. The federal government needs to take a lead with respect to the implementation of the convention.

The committee's report made a number of recommendations to facilitate implementation, including recommending the establishment of an independent children's commissioner to monitor implementation of the convention. Canada is one of the few countries in the developed world that does not have a permanently funded mechanism designed to monitor the protection of children's rights. Our committee also recommended that Parliament enact legislation to establish an independent children's commissioner to monitor such implementation. I will not go into the details, as our report fully fleshes out what we believe the commissioner could do for us.

To push the agenda for both children's rights and the respect for democratic process has also been included in our report, and I believe it warrants attention by this Senate and by the government. We need enhanced political will.

Release of our report represents a time for us to reflect on ways that Parliament can become more effectively involved in the implementation of international obligations with respect to children's rights.

In attempting to highlight the necessity of addressing children's rights, our committee is fully aware that the world may have grown weary of the phrase "our children are our future." While the statement remains true, witnesses emphasized that the government, Parliament and civil society need to move beyond that cliché and recognize that children are our citizens today. Only in understanding this can we begin to foster a true culture of rights and responsibilities for children in our society.

**The Hon. the Speaker:** If no other senator wishes to speak to this report or take the adjournment of the debate, it is deemed to have been considered.

The Senate adjourned until Wednesday, June 7, 2007, at 1:30 p.m.

## **APPENDIX**

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate



**THE SPEAKER**

The Honourable Noël A Kinsella

**THE LEADER OF THE GOVERNMENT**

The Honourable Marjory LeBreton, P.C.

**THE LEADER OF THE OPPOSITION**

The Honourable Céline Hervieux-Payette, P.C.

---

**OFFICERS OF THE SENATE****CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

Paul Bélisle

**LAW CLERK AND PARLIAMENTARY COUNSEL**

Mark Audcent

**USHER OF THE BLACK ROD**

Terrance J. Christopher

## THE MINISTRY

(In order of precedence)

(June 5, 2007)

The Right Hon. Stephen Joseph Harper	Prime Minister
The Hon. Robert Douglas Nicholson	Minister of Justice and Attorney General of Canada
The Hon. David Emerson	Minister of International Trade and Minister for the Pacific Gateway and the Vancouver-Whistler Olympics
The Hon. Jean-Pierre Blackburn	Minister of Labour and Minister of the Economic Development Agency of Canada for the Regions of Quebec
The Hon. Gregory Francis Thompson	Minister of Veterans Affairs
The Hon. Marjory LeBreton	Leader of the Government in the Senate and Secretary of State (Seniors)
The Hon. Monte Solberg	Minister of Human Resources and Social Development
The Hon. Chuck Strahl	Minister of Agriculture and Agri-Food and Minister for the Canadian Wheat Board
The Hon. Gary Lunn	Minister of Natural Resources
The Hon. Peter Gordon MacKay	Minister of Foreign Affairs and Minister of the Atlantic Canada Opportunities Agency
The Hon. Loyola Hearn	Minister of Fisheries and Oceans
The Hon. Stockwell Day	Minister of Public Safety
The Hon. Carol Skelton	Minister of National Revenue
The Hon. Vic Toews	President of the Treasury Board
The Hon. Rona Ambrose	President of the Queen's Privy Council for Canada, Minister of Intergovernmental Affairs and Minister of Western Economic Diversification
The Hon. Diane Finley	Minister of Citizenship and Immigration
The Hon. Gordon O'Connor	Minister of National Defence
The Hon. Beverley J. Oda	Minister of Canadian Heritage and Status of Women
The Hon. Jim Prentice	Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians
The Hon. John Baird	Minister of the Environment
The Hon. Maxime Bernier	Minister of Industry
The Hon. Lawrence Cannon	Minister of Transport, Infrastructure and Communities
The Hon. Tony Clement	Minister of Health and Minister for the Federal Economic Development Initiative for Northern Ontario
The Hon. James Michael Flaherty	Minister of Finance
The Hon. Josée Verner	Minister of International Cooperation and Minister for La Francophonie and Official Languages
The Hon. Michael Fortier	Minister of Public Works and Government Services
The Hon. Peter Van Loan	Leader of the Government in the House of Commons and Minister for Democratic Reform
The Hon. Jay D. Hill	Secretary of State and Chief Government Whip
The Hon. Jason Kenney	Secretary of State (Multiculturalism and Canadian Identity)
The Hon. Gerry Ritz	Secretary of State (Small Business and Tourism)
The Hon. Helena Guergis	Secretary of State (Foreign Affairs and International Trade) (Sport)
The Hon. Christian Paradis	Secretary of State (Agriculture)



## SENATORS OF CANADA

## ACCORDING TO SENIORITY

(June 5, 2007)

Senator	Designation	Post Office Address
THE HONOURABLE		
Jack Austin, P.C.	Vancouver South	Vancouver, B.C.
Willie Adams	Nunavut	Rankin Inlet, Nunavut
Lowell Murray, P.C.	Pakenham	Ottawa, Ont.
Peter Alan Stollery	Bloor and Yonge	Toronto, Ont.
Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa, Ont.
Jerahmiel S. Grafstein	Metro Toronto	Toronto, Ont.
Anne C. Cools	Toronto Centre-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujuuaq, Que.
Daniel Hays, P.C.	Calgary	Calgary, Alta.
Joyce Fairbairn, P.C.	Lethbridge	Lethbridge, Alta.
Colin Kenny	Rideau	Ottawa, Ont.
Pierre De Bané, P.C.	De la Vallière	Montreal, Que.
Eymard Georges Corbin	Grand-Sault	Grand-Sault, N.B.
Norman K. Atkins	Markham	Toronto, Ont.
Ethel Cochrane	Newfoundland and Labrador	Port-au-Port, Nfld. & Lab.
Mira Spivak	Manitoba	Winnipeg, Man.
Pat Carney, P.C.	British Columbia	Vancouver, B.C.
Gerald J. Comeau	Nova Scotia	Saulnierville, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	Nova Scotia	Halifax, N.S.
Noël A. Kinsella, <i>Speaker</i>	Fredericton-York-Sunbury	Fredericton, N.B.
J. Trevor Eyton	Ontario	Caledon, Ont.
Wilbert Joseph Keon	Ottawa	Ottawa, Ont.
Michael Arthur Meighen	St. Marys	Toronto, Ont.
Janis G. Johnson	Winnipeg-Interlake	Gimli, Man.
A. Raynell Andreychuk	Saskatchewan	Regina, Sask.
Jean-Claude Rivest	Stadacona	Quebec, Que.
Terrance R. Stratton	Red River	St. Norbert, Man.
Marcel Prud'homme, P.C.	La Salle	Montreal, Que.
Leonard J. Gustafson	Saskatchewan	Macoun, Sask.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
W. David Angus	Alma	Montreal, Que.
Pierre Claude Nolin	De Salaberry	Quebec, Que.
Marjory LeBreton, P.C.	Ontario	Manotick, Ont.
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Lise Bacon	De la Durantaye	Laval, Que.
Sharon Carstairs, P.C.	Manitoba	Winnipeg, Man.
John G. Bryden	New Brunswick	Bayfield, N.B.
Rose-Marie Losier-Cool	Tracadie	Bathurst, N.B.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
William H. Rompkey, P.C.	North West River, Labrador	North West River, Labrador, Nfld. & Lab.
Lorna Milne	Peel County	Brampton, Ont.
Marie-P. Poulin	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.

Senator	Designation	Post Office Address
Wilfred P. Moore	Stanhope St./South Shore	Chester, N.S.
Lucie Pépin	Shawinigan	Montreal, Que.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Joan Cook	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Ross Fitzpatrick	Okanagan-Similkameen	Kelowna, B.C.
Francis William Mahovlich	Toronto	Toronto, Ont.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
Vivienne Poy	Toronto	Toronto, Ont.
George Furey	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Tommy Banks	Alberta	Edmonton, Alta.
Jane Cordy	Nova Scotia	Dartmouth, N.S.
Elizabeth M. Hubley	Prince Edward Island	Kensington, P.E.I.
Mobina S. B. Jaffer	British Columbia	North Vancouver, B.C.
Jean Lapointe	Saurel	Magog, Que.
Gerard A. Phalen	Nova Scotia	Glace Bay, N.S.
Joseph A. Day	Saint John-Kennebecasis	Hampton, N.B.
Michel Biron	Mille Isles	Nicolet, Que.
George S. Baker, P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.
Raymond Lavigne	Montarville	Verdun, Que.
David P. Smith, P.C.	Cobourg	Toronto, Ont.
Maria Chaput	Manitoba	Sainte-Anne, Man.
Pana Merchant	Saskatchewan	Regina, Sask.
Pierrette Ringuette	New Brunswick	Edmundston, N.B.
Percy Downe	Charlottetown	Charlottetown, P.E.I.
Paul J. Massicotte	De Lanaudière	Mont-Saint-Hilaire, Que.
Mac Harb	Ontario	Ottawa, Ont.
Marilyn Trenholme Counsell	New Brunswick	Sackville, N.B.
Terry M. Mercer	Northend Halifax	Caribou River, N.S.
Jim Munson	Ottawa/Rideau Canal	Ottawa, Ont.
Claudette Tardif	Alberta	Edmonton, Alta.
Grant Mitchell	Alberta	Edmonton, Alta.
Elaine McCoy	Alberta	Calgary, Alta.
Robert W. Peterson	Saskatchewan	Regina, Sask.
Lillian Eva Dyck	Saskatchewan	Saskatoon, Sask.
Art Eggleton, P.C.	Ontario	Toronto, Ont.
Nancy Ruth	Cluny	Toronto, Ont.
Romeo Antonius Dallaire	Gulf	Sainte-Foy, Que.
James S. Cowan	Nova Scotia	Halifax, N.S.
Andrée Champagne, P.C.	Grandville	Saint-Hyacinthe, Que.
Hugh Segal	Kingston-Frontenac-Leeds	Kingston, Ont.
Larry W. Campbell	British Columbia	Vancouver, B.C.
Rod A.A. Zimmer	Manitoba	Winnipeg, Man.
Dennis Dawson	Lauzon	Sainte-Foy, Que.
Yoïne Goldstein	Rigaud	Montreal, Que.
Francis Fox, P.C.	Victoria	Montreal, Que.
Sandra Lovelace Nicholas	New Brunswick	Tobique First Nations, N.B.
Michael Fortier, P.C.	Rougemont	Town of Mount Royal, Que.



## SENATORS OF CANADA

## ALPHABETICAL LIST

(June 5, 2007)

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Adams, Willie	Nunavut	Rankin Inlet, Nunavut	Liberal
Andreychuk, A. Raynell	Saskatchewan	Regina, Sask.	Conservative
Angus, W. David	Alma	Montreal, Que.	Conservative
Atkins, Norman K.	Markham	Toronto, Ont.	Progressive Conservative
Austin, Jack, P.C.	Vancouver South	Vancouver, B.C.	Liberal
Bacon, Lise	De la Durantaye	Laval, Que.	Liberal
Baker, George S., P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.	Liberal
Banks, Tommy	Alberta	Edmonton, Alta.	Liberal
Biron, Michel	Mille Isles	Nicolet, Que.	Liberal
Bryden, John G.	New Brunswick	Bayfield, N.B.	Liberal
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.	Liberal
Campbell, Larry W.	British Columbia	Vancouver, B.C.	Liberal
Carney, Pat, P.C.	British Columbia	Vancouver, B.C.	Conservative
Carstairs, Sharon, P.C.	Manitoba	Winnipeg, Man.	Liberal
Champagne, Andr��e, P.C.	Grandville	Saint-Hyacinthe, Que.	Conservative
Chaput, Maria	Manitoba	Sainte-Anne, Man.	Liberal
Cochrane, Ethel	Newfoundland and Labrador	Port-au-Port, Nfld. & Lab.	Conservative
Comeau, Gerald J.	Nova Scotia	Saulnierville, N.S.	Conservative
Cook, Joan	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Liberal
Cools, Anne C.	Toronto Centre-York	Toronto, Ont.	Conservative
Corbin, Eymard Georges	Grand-Sault	Grand-Sault, N.B.	Liberal
Cordy, Jane	Nova Scotia	Dartmouth, N.S.	Liberal
Cowan, James S.	Nova Scotia	Halifax, N.S.	Liberal
Dallaire, Rom��o Antonius	Gulf	Sainte-Foy, Que.	Liberal
Dawson, Dennis	Lauzon	Ste-Foy, Que.	Liberal
Day, Joseph A.	Saint John-Kennebecasis	Hampton, N.B.	Liberal
De Ban��, Pierre, P.C.	De la Valli��re	Montreal, Que.	Liberal
Di Nino, Consiglio	Ontario	Downsview, Ont.	Conservative
Downe, Percy	Charlottetown	Charlottetown, P.E.I.	Liberal
Dyck, Lillian Eva	Saskatchewan	Saskatoon, Sask.	Ind. New Democrat
Eggleton, Art, P.C.	Ontario	Toronto, Ont.	Liberal
Eyton, J. Trevor	Ontario	Caledon, Ont.	Conservative
Fairbairn, Joyce, P.C.	Lethbridge	Lethbridge, Alta.	Liberal
Fitzpatrick, Ross	Okanagan-Similkameen	Kelowna, B.C.	Liberal
Fortier, Michael, P.C.	Rougemont	Town of Mount Royal, Que.	Conservative
Fox, Francis, P.C.	Victoria	Montreal, Que.	Liberal
Fraser, Joan Thorne	De Lorimier	Montreal, Que.	Liberal
Furey, George	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Liberal
Gill, Aur��lien	Wellington	Mashteuiatsh, Pointe-Bleue, Que.	Liberal
Goldstein, Yoine	Rigaud	Montreal, Que.	Liberal
Grafstein, Jerahmiel S.	Metro Toronto	Toronto, Ont.	Liberal
Gustafson Leonard J.	Saskatchewan	Macoun, Sask.	Conservative
Harb, Mac	Ontario	Ottawa, Ont.	Liberal
Hays, Daniel, P.C.	Calgary	Calgary, Alta.	Liberal
Hervieux-Payette, C��line, P.C.	Bedford	Montreal, Que.	Liberal
Hubley, Elizabeth M.	Prince Edward Island	Kensington, P.E.I.	Liberal
Jaffer, Mobina S. B.	British Columbia	North Vancouver, B.C.	Liberal

Senator	Designation	Post Office Address	Political Affiliation
Johnson, Janis G.	Winnipeg-Interlake	Gimli, Man.	Conservative
Joyal, Serge, P.C.	Kennebec	Montreal, Que.	Liberal
Kenny, Colin	Rideau	Ottawa, Ont.	Liberal
Keon, Wilbert Joseph	Ottawa	Ottawa, Ont.	Conservative
Kinsella, Noël A., <i>Speaker</i>	Fredericton-York-Sunbury	Fredericton, N.B.	Conservative
Lapointe, Jean	Saurel	Magog, Que.	Liberal
Lavigne, Raymond	Montarville	Verdun, Que.	Liberal
LeBreton, Marjory, P.C.	Ontario	Manotick, Ont.	Conservative
Losier-Cool, Rose-Marie	Tracadie	Bathurst, N.B.	Liberal
Lovelace Nicholas, Sandra	New Brunswick	Tobique First Nations, N.B.	Liberal
Mahovlich, Francis William	Toronto	Toronto, Ont.	Liberal
Massicotte, Paul J.	De Lanaudière	Mont-Saint-Hilaire, Que.	Liberal
McCoy, Elaine	Alberta	Calgary, Alta.	Progressive Conservative
Meighen, Michael Arthur	St. Marys	Toronto, Ont.	Conservative
Mercer, Terry M.	Northend Halifax	Caribou River, N.S.	Liberal
Merchant, Pana	Saskatchewan	Regina, Sask.	Liberal
Milne, Lorna	Peel County	Brampton, Ont.	Liberal
Mitchell, Grant	Alberta	Edmonton, Alta.	Liberal
Moore, Wilfred P.	Stanhope St./South Shore	Chester, N.S.	Liberal
Munson, Jim	Ottawa/Rideau Canal	Ottawa, Ont.	Liberal
Murray, Lowell, P.C.	Pakenham	Ottawa, Ont.	Progressive Conservative
Nancy Ruth	Cluny	Toronto, Ont.	Conservative
Nolin, Pierre Claude	De Salaberry	Quebec, Que.	Conservative
Oliver, Donald H.	Nova Scotia	Halifax, N.S.	Conservative
Pépin, Lucie	Shawinigan	Montreal, Que.	Liberal
Peterson, Robert W.	Saskatchewan	Regina, Sask.	Liberal
Phalen, Gerard A.	Nova Scotia	Glace Bay, N.S.	Liberal
Pitfield, Peter Michael, P.C.	Ottawa-Vanier	Ottawa, Ont.	Independent
Poulin, Marie-P.	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.	Liberal
Poy, Vivienne	Toronto	Toronto, Ont.	Liberal
Prud'homme, Marcel, P.C.	La Salle	Montreal, Que.	Independent
Ringuette, Pierrette	New Brunswick	Edmundston, N.B.	Liberal
Rivest, Jean-Claude	Stadacona	Quebec, Que.	Independent
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.	Liberal
Rompkey, William H., P.C.	North West River, Labrador	North West River, Labrador, Nfld. & Lab.	Liberal
St. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.	Conservative
Segal, Hugh	Kingston-Frontenac-Leeds	Kingston, Ont.	Conservative
Sibbeston, Nick G.	Northwest Territories	Fort Simpson, N.W.T.	Liberal
Smith, David P., P.C.	Cobourg	Toronto, Ont.	Liberal
Spivak, Mira	Manitoba	Winnipeg, Man.	Independent
Stollery, Peter Alan	Bloor and Yonge	Toronto, Ont.	Liberal
Stratton, Terrance R.	Red River	St. Norbert, Man.	Conservative
Tardif, Claudette	Alberta	Edmonton, Alta.	Liberal
Tkachuk, David	Saskatchewan	Saskatoon, Sask.	Conservative
Trenholme Counsell, Marilyn	New Brunswick	Sackville, N.B.	Liberal
Watt, Charlie	Inkerman	Kuuujuaq, Que.	Liberal
Zimmer, Rod A.A.	Manitoba	Winnipeg, Man.	Liberal



# SENATORS OF CANADA

## BY PROVINCE AND TERRITORY

(June 5, 2007)

### ONTARIO—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Lowell Murray, P.C.	Pakenham	Ottawa
2 Peter Alan Stollery	Bloor and Yonge	Toronto
3 Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa
4 Jeremiah S. Grafstein	Metro Toronto	Toronto
5 Anne C. Cools	Toronto Centre-York	Toronto
6 Colin Kenny	Rideau	Ottawa
7 Norman K. Atkins	Markham	Toronto
8 Consiglio Di Nino	Ontario	Downsview
9 John Trevor Eyton	Ontario	Caledon
10 Wilbert Joseph Keon	Ottawa	Ottawa
11 Michael Arthur Meighen	St. Marys	Toronto
12 Marjory LeBreton, P.C.	Ontario	Manotick
13 Lorna Milne	Peel County	Brampton
14 Marie-P. Poulin	Northern Ontario	Ottawa
15 Francis William Mahovlich	Toronto	Toronto
16 Vivienne Poy	Toronto	Toronto
17 David P. Smith, P.C.	Cobourg	Toronto
18 Mac Harb	Ontario	Ottawa
19 Jim Munson	Ottawa/Rideau Canal	Ottawa
20 Art Eggleton, P.C.	Ontario	Toronto
21 Nancy Ruth	Cluny	Toronto
22 Hugh Segal	Kingston-Frontenac-Leeds	Kingston
23		
24		

## SENATORS BY PROVINCE AND TERRITORY

## QUEBEC—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Charlie Watt	Inkerman	Kuujuuaq
2 Pierre De Bané, P.C.	De la Vallière	Montreal
3 Jean-Claude Rivest	Stadacona	Quebec
4 Marcel Prud'homme, P.C.	La Salle	Montreal
5 W. David Angus	Alma	Montreal
6 Pierre Claude Nolin	De Salaberry	Quebec
7 Lise Bacon	De la Durantaye	Laval
8 Céline Hervieux-Payette, P.C.	Bedford	Montreal
9 Lucie Pépin	Shawinigan	Montreal
10 Serge Joyal, P.C.	Kennebec	Montreal
11 Joan Thorne Fraser	De Lorimier	Montreal
12 Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue
13 Jean Lapointe	Saurel	Magog
14 Michel Biron	Milles Isles	Nicolet
15 Raymond Lavigne	Montarville	Verdun
16 Paul J. Massicotte	De Lanaudière	Mont-Saint-Hilaire
17 Roméo Antonius Dallaire	Gulf	Sainte-Foy
18 Andrée Champagne, P.C.	Grandville	Saint-Hyacinthe
19 Dennis Dawson	Lauzon	Ste-Foy
20 Yoine Goldstein	Rigaud	Montreal
21 Francis Fox, P.C.	Victoria	Montreal
22 Michael Fortier, P.C.	Rougemont	Town of Mount Royal
23		
24		



## SENATORS BY PROVINCE-MARITIME DIVISION

## NOVA SCOTIA—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Gerald J. Comeau	Nova Scotia	Saulnierville
2 Donald H. Oliver	Nova Scotia	Halifax
3 Wilfred P. Moore	Stanhope St./South Shore	Chester
4 Jane Cordy	Nova Scotia	Dartmouth
5 Gerard A. Phalen	Nova Scotia	Glace Bay
6 Terry M. Mercer	Northend Halifax	Caribou River
7 James S. Cowan	Nova Scotia	Halifax
8		
9		
10		

## NEW BRUNSWICK—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Eymard Georges Corbin	Grand-Sault	Grand-Sault
2 Noël A. Kinsella, <i>Speaker</i>	Fredericton-York-Sunbury	Fredericton
3 John G. Bryden	New Brunswick	Bayfield
4 Rose-Marie Losier-Cool	Tracadie	Bathurst
5 Fernand Robichaud, P.C.	Saint-Louis-de-Kent	Saint-Louis-de-Kent
6 Joseph A. Day	Saint John-Kennebecasis, New Brunswick	Hampton
7 Pierrette Ringuette	New Brunswick	Edmundston
8 Marilyn Trenholme Counsell	New Brunswick	Sackville
9 Sandra Lovelace Nicholas	New Brunswick	Tobique First Nations
10		

## PRINCE EDWARD ISLAND—4

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Catherine S. Callbeck	Prince Edward Island	Central Bedeque
2 Elizabeth M. Hubley	Prince Edward Island	Kensington
3 Percy Downe	Charlottetown	Charlottetown
4		

## SENATORS BY PROVINCE-WESTERN DIVISION

## MANITOBA—6

Senator	Designation	Post Office Address
---------	-------------	---------------------

## THE HONOURABLE

1 Mira Spivak . . . . .	Manitoba . . . . .	Winnipeg
2 Janis G. Johnson . . . . .	Winnipeg-Interlake . . . . .	Gimli
3 Terrance R. Stratton . . . . .	Red River . . . . .	St. Norbert
4 Sharon Carstairs, P.C. . . . .	Manitoba . . . . .	Winnipeg
5 Maria Chaput . . . . .	Manitoba . . . . .	Sainte-Anne
6 Rod A.A. Zimmer . . . . .	Manitoba . . . . .	Winnipeg

## BRITISH COLUMBIA—6

Senator	Designation	Post Office Address
---------	-------------	---------------------

## THE HONOURABLE

1 Jack Austin, P.C. . . . .	Vancouver South . . . . .	Vancouver
2 Pat Carney, P.C. . . . .	British Columbia . . . . .	Vancouver
3 Gerry St. Germain, P.C. . . . .	Langley-Pemberton-Whistler . . . . .	Maple Ridge
4 Ross Fitzpatrick . . . . .	Okanagan-Similkameen . . . . .	Kelowna
5 Mobina S.B. Jaffer . . . . .	British Columbia . . . . .	North Vancouver
6 Larry W. Campbell . . . . .	British Columbia . . . . .	Vancouver

## SASKATCHEWAN—6

Senator	Designation	Post Office Address
---------	-------------	---------------------

## THE HONOURABLE

1 A. Raynell Andreychuk . . . . .	Saskatchewan . . . . .	Regina
2 Leonard J. Gustafson . . . . .	Saskatchewan . . . . .	Macoun
3 David Tkachuk . . . . .	Saskatchewan . . . . .	Saskatoon
4 Pana Merchant . . . . .	Saskatchewan . . . . .	Regina
5 Robert W. Peterson . . . . .	Saskatchewan . . . . .	Regina
6 Lillian Eva Dyck . . . . .	Saskatchewan . . . . .	Saskatoon

## ALBERTA—6

Senator	Designation	Post Office Address
---------	-------------	---------------------

## THE HONOURABLE

1 Daniel Hays, P.C. . . . .	Calgary . . . . .	Calgary
2 Joyce Fairbairn, P.C. . . . .	Lethbridge . . . . .	Lethbridge
3 Tommy Banks . . . . .	Alberta . . . . .	Edmonton
4 Claudette Tardif . . . . .	Alberta . . . . .	Edmonton
5 Grant Mitchell . . . . .	Alberta . . . . .	Edmonton
6 Elaine McCoy . . . . .	Alberta . . . . .	Calgary



## SENATORS BY PROVINCE AND TERRITORY

### NEWFOUNDLAND AND LABRADOR—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Ethel Cochrane .....	Newfoundland and Labrador .....	Port-au-Port
2 William H. Rompkey, P.C. ....	North West River, Labrador .....	North West River, Labrador
3 Joan Cook .....	Newfoundland and Labrador .....	St. John's
4 George Furey .....	Newfoundland and Labrador .....	St. John's
5 George S. Baker, P.C. ....	Newfoundland and Labrador .....	Gander
6 .....		

### NORTHWEST TERRITORIES—1

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Nick G. Sibbeston .....	Northwest Territories .....	Fort Simpson

### NUNAVUT—1

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Willie Adams .....	Nunavut .....	Rankin Inlet

### YUKON—1

Senator	Designation	Post Office Address
THE HONOURABLE		
1 .....		

## ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES

(As of June 5, 2007)

\*Ex Officio Member

## ABORIGINAL PEOPLES

Chair: Honourable Senator St. Germain

Deputy Chair: Honourable Senator Sibbeston

## Honourable Senators:

Campbell,	* Hervieux-Payette (or Tardif),	Lovelace Nicholas,	Segal,
Dyck,	Hubley,	Peterson,	Sibbeston,
Gill,	* LeBreton (or Comeau),	St. Germain,	Watt.
Gustafson,			

*Original Members as nominated by the Committee of Selection*

*Campbell, Dyck, \*Hays (or Fraser), Gill, Gustafson, Hubley, \*LeBreton (or Comeau), Lovelace Nicholas, Peterson, Segal, Sibbeston, St. Germain, Watt, Zimmer*

## AGRICULTURE AND FORESTRY

Chair: Honourable Senator Fairbairn

Deputy Chair: Honourable Senator Gustafson

## Honourable Senators:

Biron,	Fairbairn,	* LeBreton (or Comeau),	Peterson,
Callbeck,	Gustafson,	Mercer,	St. Germain,
Chaput,	* Hervieux-Payette (or Tardif),	Oliver,	Segal.

*Original Members as nominated by the Committee of Selection*

*Callbeck, Christensen, Fairbairn, \*Hays (or Fraser), Gustafson, \*LeBreton (or Comeau), Mahovlich, Mercer, Mitchell, Oliver, Pépin, Peterson, Segal, Tkachuk.*

## BANKING, TRADE AND COMMERCE

Chair: Honourable Senator Grafstein

Deputy Chair: Honourable Senator Angus

## Honourable Senators:

Angus,	Goldstein,	* LeBreton (or Comeau),	Moore,
Biron,	Grafstein,	Massicotte,	Ringuette,
Campbell,	Harb,	Meighen,	Tkachuk.
Eyton,	* Hervieux-Payette (or Tardif),		

*Original Members as nominated by the Committee of Selection*

*Angus, Biron, Eyton, Fitzpatrick, \*Hays (or Fraser), Goldstein, Grafstein, Harb, Hervieux-Payette, \*LeBreton (or Comeau), Massicotte, Meighen, Moore, Tkachuk.*



### CONFLICT OF INTEREST FOR SENATORS

**Chair: Honourable Senator Joyal**

**Deputy Chair: Honourable Senator Andreychuk**

**Honourable Senators:**

Andreychuk, Angus,	Carstairs,	Joyal,	Robichaud.
-----------------------	------------	--------	------------

*Original Members as nominated by the Committee of Selection*  
*Andreychuk, Angus, Carstairs, Joyal, Robichaud.*

---

### ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

**Chair: Honourable Senator Banks**

**Deputy Chair: Honourable Senator Cochrane**

**Honourable Senators:**

Adams, Angus, Banks, Cochrane,	* Hervieux-Payette (or Tardif), Kenny, Lavigne,	* LeBreton (or Comeau), Milne, Peterson,	Sibbeston, Spivak, Tkachuk.
---	---	--	-----------------------------------

*Original Members as nominated by the Committee of Selection*  
*Angus, Banks, Carney, Cochrane, Fox, \*Hays (or Fraser), Hervieux-Payette, Lavigne,*  
*\*LeBreton (or Comeau), Milne, Peterson, Sibbeston, Spivak, Tardif.*

---

### FISHERIES AND OCEANS

**Chair: Honourable Senator Rompkey**

**Deputy Chair: Honourable Senator Johnson**

**Honourable Senators:**

Adams, Baker, Campbell, Cochrane,	Comeau, Gill, * Hervieux-Payette (or Tardif), Hubley,	Johnson, * LeBreton (or Comeau), Meighen,	Robichaud, Rompkey, Watt.
--	--	---	---------------------------------

*Original Members as nominated by the Committee of Selection*  
*Adams, Baker, Campbell, Comeau, Cowan, Forrestall, \*Hays (or Fraser), Gill, Hubley, Johnson,*  
*\*LeBreton (or Comeau), Meighen, Rompkey, Watt.*

---

## FOREIGN AFFAIRS AND INTERNATIONAL TRADE

Chair: Honourable Senator Di Nino

Deputy Chair: Honourable Senator Stollery

## Honourable Senators:

Andreychuk,	Di Nino,	* LeBreton (or Comeau),	Segal,
Corbin,	Downe,	Mahovlich,	Smith,
Dawson,	* Hervieux-Payette (or Tardif),	Merchant,	Stollery.
De Bané,	Johnson,		

*Original Members as nominated by the Committee of Selection*

*Andreychuk, Corbin, Dawson, De Bané, Di Nino, Downe, \*Hays (or Fraser),  
\*LeBreton (or Comeau), Mahovlich, Merchant, Segal, Smith, St. Germain, Stollery.*

---

## HUMAN RIGHTS

Chair: Honourable Senator Andreychuk

Deputy Chair: Honourable Senator Fraser

## Honourable Senators:

Andreychuk,	* Hervieux-Payette (or Tardif),	* LeBreton (or Comeau),	Nancy Ruth,
Dallaire,	Jaffer,	Lovelace Nicholas,	Poy.
Fraser,	Kinsella,	Munson,	

*Original Members as nominated by the Committee of Selection*

*Andreychuk, Carstairs, Dallaire, \*Hays (or Fraser), Kinsella,  
\*LeBreton (or Comeau), Lovelace Nicholas, Munson, Nancy Ruth, Pépín, Poy.*

---

## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

Chair: Honourable Senator Furey

Deputy Chair: Honourable Senator Nolin

## Honourable Senators:

Comeau,	Jaffer,	Massicotte,	Prud'homme,
Cook,	Kenny,	Nolin,	Robichaud,
Downe,	Kinsella,	Phalen,	Stollery,
Furey,	* LeBreton (or Comeau),	Poulin,	Stratton.
* Hervieux-Payette (or Tardif),			

*Original Members as nominated by the Committee of Selection*

*Banks, Cook, Day, De Bané, Di Nino, Furey, \*Hays (or Fraser), Jaffer, Kenny, Keon,  
\*LeBreton (or Comeau), Lynch-Staunton, Massicotte, Nolin, Poulin, Robichaud, Stratton.*

---



**LEGAL AND CONSTITUTIONAL AFFAIRS****Chair: Honourable Senator Oliver****Deputy Chair: Honourable Senator Milne****Honourable Senators:**

Andreychuk,	* Hervieux-Payette (or Tardif),	Nolin,	Robichaud,
Baker,	* LeBreton (or Comeau),	Oliver,	Rompkey,
Bryden,	Milne,	Rivest,	Stratton.
Fraser,	Moore,		

***Original Members as nominated by the Committee of Selection***

*Andreychuk, Baker, Bryden, Cools, Furey, \*Hays (or Fraser), Jaffer, Joyal,  
\*LeBreton (or Comeau), Milne, Nolin, Oliver, Ringuette, Rivest.*

---

**LIBRARY OF PARLIAMENT (Joint)****Joint Chair: Honourable Senator Trenholme Counsell****Honourable Senators:**

Johnson,	Oliver,	Poy,	Trenholme Counsell.
Lapointe,			

***Original Members agreed to by Motion of the Senate***

*Johnson, Lapointe, Oliver, Poy, Trenholme Counsell.*

---

**NATIONAL FINANCE****Chair: Honourable Senator Day****Deputy Chair: Honourable Senator Nancy Ruth****Honourable Senators:**

Biron,	Eggleton,	Mitchell,	Ringuette,
Day,	* Hervieux-Payette (or Tardif),	Murray,	Rompkey,
Di Nino,	* LeBreton (or Comeau),	Nancy Ruth,	Stratton.

***Original Members as nominated by the Committee of Selection***

*Biron, Cools, Cowan, Day, Eggleton, Fox, \*Hays (or Fraser),  
\*LeBreton (or Comeau), Mitchell, Murray, Nancy Ruth, Ringuette, Rompkey, Stratton.*

---

**NATIONAL SECURITY AND DEFENCE****Chair: Honourable Senator Kenny****Deputy Chair: Honourable Senator Atkins****Honourable Senators:**

Atkins,	Day,	Kenny,	Moore,
Banks,	* Hervieux-Payette (or Tardif),	* LeBreton (or Comeau),	Zimmer.

*Original Members as nominated by the Committee of Selection**Atkins, Banks, Campbell, Day, Forrestall, \*Hays (or Fraser), Kenny,  
\*LeBreton (or Comeau), Meighen, Poulin, Watt.***VETERANS AFFAIRS****(Subcommittee of National Security and Defence)****Chair: Honourable Senator Day****Deputy Chair: Honourable Senator Atkins****Honourable Senators:**

Atkins,	* Hervieux-Payette (or Tardif),	Kenny,	* LeBreton (or Comeau).
Day,			

**OFFICIAL LANGUAGES****Chair: Honourable Senator Chaput****Deputy Chair:****Honourable Senators:**

Chaput,	* Hervieux-Payette (or Tardif),	* LeBreton (or Comeau),	Tardif,
Comeau,	Jaffer,	Losier-Cool,	Trenholme Counsell.
Cowan,	Keon,	Murray,	

*Original Members as nominated by the Committee of Selection**Champagne, Chaput, Comeau, \*Hays (or Fraser), Jaffer, \*LeBreton (or Comeau),  
Losier-Cool, Plamondon, Robichaud, Tardif, Trenholme Counsell.*



## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

**Chair: Honourable Senator Keon**

**Deputy Chair: Honourable Senator Smith**

**Honourable Senators:**

Andreychuk,	Fraser,	Keon,	Robichaud,
Bryden,	Hays,	* LeBreton (or Comeau),	Smith,
Corbin,	* Hervieux-Payette (or Tardif),	Losier-Cool,	Stratton,
Cordy,	Joyal,	McCoy,	Tardif.
Di Nino,			

*Original Members as nominated by the Committee of Selection*

*Andreychuk, Bryden, Carstairs, Cools, Corbin, Cordy, Di Nino, \*Hays (or Fraser), Joyal,  
\*LeBreton (or Comeau), Losier-Cool, McCoy, Mitchell, Robichaud,  
Smith, Stratton, Tardif.*

---

## SCRUTINY OF REGULATIONS (Joint)

**Joint Chair: Honourable Senator Eyton**

**Honourable Senators:**

Biron,	De Bané,	Harb,	Nolin,
Bryden,	Eyton,	Moore,	St. Germain.

*Original Members as agreed to by Motion of the Senate*

*Biron, Bryden, De Bané, Eyton, Harb, Moore, Nolin, St. Germain,*

---

## SELECTION

**Chair: Honourable Senator Stratton**

**Deputy Chair: Honourable Senator Cowan**

**Honourable Senators:**

Bacon,	Cowan,	* Hervieux-Payette (or Tardif),	Stratton,
Carstairs,	Fairbairn,	* LeBreton (or Comeau),	Tkachuk.
Champagne,	Hays,	Oliver,	

*Original Members agreed to by Motion of the Senate*

*Austin, Bacon, Carstairs, Champagne, Cook, Fairbairn,  
\*Hays (or Fraser), \*LeBreton (or Comeau) Oliver, Stratton, Tkachuk.*

---

## SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

**Chair: Honourable Senator Eggleton**

**Deputy Chair: Honourable Senator Keon**

**Honourable Senators:**

Callbeck, Champagne, Cochrane, Cook,	Cordy, Eggleton, Fairbairn, * Hervieux-Payette (or Tardif),	Keon, * LeBreton (or Comeau), Munson,	Nancy Ruth, Pépin, Trenholme Counsell.
---	--	---	--

*Original Members as nominated by the Committee of Selection*

*Callbeck, Champagne, Cochrane, Cook, Cordy, Eggleton, Fairbairn, Forrestall,  
\*Hays (or Fraser), Keon, Kirby, \*LeBreton (or Comeau), Pépin, Trenholme Counsell.*

---

## CITIES

(Subcommittee of Social Affairs, Science and Technology Committee)

**Chair: Honourable Senator Eggleton**

**Deputy Chair: Honourable Senator Champagne**

**Honourable Senators:**

Champagne Cordy,	Eggleton, Hervieux-Payette (or Tardif),	* LeBreton (or Comeau), Munson,	Nancy Ruth, Trenholme Counsell.
---------------------	--	------------------------------------	------------------------------------

---

## POPULATION HEALTH

(Subcommittee of Social Affairs, Science and Technology Committee)

**Chair: Honourable Senator Keon**

**Deputy Chair: Honourable Senator Pépin**

**Honourable Senators:**

Callbeck, Cochrane,	Cook, Fairbairn,	* Hervieux-Payette (or Tardif), Keon,	* LeBreton (or Comeau), Pépin.
------------------------	---------------------	--	-----------------------------------

---

## TRANSPORT AND COMMUNICATIONS

**Chair: Honourable Senator Bacon**

**Deputy Chair: Honourable Senator Tkachuk**

**Honourable Senators:**

Adams, Bacon, Carney, Dawson,	Eyton, Fox, * Hervieux-Payette (or Tardif), Johnson,	* LeBreton (or Comeau), Merchant, Munson,	Phalen, Tkachuk, Zimmer.
--	---	---	--------------------------------

*Original Members as nominated by the Committee of Selection*

*Adams, Bacon, Carney, Dawson, Eyton, \*Hays (or Fraser), Johnson,  
\*LeBreton (or Comeau), Mercer, Merchant, Munson, Phalen, Tkachuk, Zimmer.*

---



**SPECIAL SENATE COMMITTEE ON AGING****Chair: Honourable Senator Carstairs****Deputy Chair: Honourable Senator Keon****Honourable Senators:**Carstairs,  
Chaput,Cordy,  
\* Hervieux-Payette (or Tardif),Keon,  
\* LeBreton (or Comeau),Mercer,  
Murray.*Original Members as nominated by the Committee of Selection**Carstairs, Chaput, Cordy, \*Hays (or Fraser), Johnson, Keon, \*LeBreton (or Comeau), Mercer, Murray.***SPECIAL SENATE COMMITTEE ON THE ANTI-TERRORISM ACT****Chair: Honourable Senator Smith****Deputy Chair: Honourable Senator Nolin****Honourable Senators:**Andreychuk,  
Day,  
Fairbairn,Fraser,  
\* Hervieux-Payette (or Tardif),  
Jaffer,Joyal,  
Kinsella,  
\* LeBreton (or Comeau),Nolin,  
Smith.*Original Members as nominated by the Committee of Selection**Andreychuk, Day, Fairbairn, Fraser, Hays (or Fraser), Jaffer, Joyal,  
Kinsella, \*LeBreton (or Comeau), Nolin, Smith.*

# CONTENTS

Tuesday, June 5, 2007

	PAGE		PAGE
<b>The Late Master Corporal Darrell Jason Priede</b> <b>The Late Corporal Christopher Deliva</b> <b>Silent Tribute.</b> <b>The Hon. the Speaker.</b> . . . . .	2503	<b>Notice of Motion to Authorize Committee to Extend Date of</b> <b>Final Report on Study of Including in Legislation</b> <b>Non-derogation Clauses Relating to Aboriginal Treaty Rights.</b> <b>Hon. Donald H. Oliver.</b> . . . . .	2507
<hr/>			
<b>SENATORS' STATEMENTS</b>		<b>Study on Evacuation of Canadian Citizens from Lebanon</b> <b>Notice of Motion to Adopt Report of Foreign Affairs</b> <b>and International Trade Committee and Request</b> <b>Government Response.</b> <b>Hon. Consiglio Di Nino</b> . . . . .	2507
<b>China</b> <b>Eighteenth Anniversary of Tiananmen Square Massacre.</b> <b>Hon. Consiglio Di Nino</b> . . . . .	2503	<b>State of Research in Canada</b> <b>Notice of Inquiry.</b> <b>Hon. Wilbert J. Keon</b> . . . . .	2508
<b>Les Grands Ballets canadiens de Montréal</b> <b>Fiftieth Anniversary.</b> <b>Hon. Yoine Goldstein.</b> . . . . .	2503	<hr/>	
<b>Amyotrophic Lateral Sclerosis (ALS) Awareness Month</b> <b>Hon. Lowell Murray</b> . . . . .	2503	<b>QUESTION PERIOD</b>	
<b>Canadian Summit of Francophone and Acadian Communities</b> <b>Hon. Maria Chaput</b> . . . . .	2504	<b>Heritage</b> <b>Support for the Arts—Funding of Summer Festivals.</b> <b>Hon. Céline Hervieux-Payette</b> . . . . .	2508
<b>Under-Representation of Women in University</b> <b>Faculty Positions in Science and Engineering</b> <b>Hon. Lillian Eva Dyck</b> . . . . .	2504	<b>Hon. Marjory LeBreton</b> . . . . .	2508
<hr/>			
<b>ROUTINE PROCEEDINGS</b>		<b>Hon. Francis Fox.</b> . . . . .	2509
<b>Canada Elections Act</b> <b>Public Service Employment Act (Bill C-31)</b> <b>Bill to Amend—Report of Committee.</b> <b>Hon. Donald H. Oliver.</b> . . . . .	2505	<b>Public Works and Government Services</b> <b>Review of Government Polling—Extension of Mandate.</b> <b>Hon. Sharon Carstairs</b> . . . . .	2509
<b>Emergency Management Bill (Bill C-12)</b> <b>Report of Committee.</b> <b>Hon. David P. Smith</b> . . . . .	2506	<b>Hon. Michael Fortier</b> . . . . .	2509
<b>Citizenship Act (Bill C-14)</b> <b>Bill to Amend—First Reading.</b> . . . . .	2506	<b>Heritage</b> <b>Support for the Arts—Funding for Summer Festivals.</b> <b>Hon. Jean Lapointe</b> . . . . .	2510
<b>Criminal Code (Bill C-35)</b> <b>Bill to Amend—First Reading.</b> . . . . .	2506	<b>Hon. Marjory LeBreton</b> . . . . .	2510
<b>Canada-United States Inter-Parliamentary Group</b> <b>National Governors Association Winter Meeting,</b> <b>February 24-27, 2007—Report Tabled.</b> <b>Hon. Jeremiah S. Grafstein</b> . . . . .	2506	<b>The Senate</b> <b>Minister of Public Works and Government Services—</b> <b>Recorded Votes—Resignation.</b> <b>Hon. Lorna Milne</b> . . . . .	2510
<b>The Senate</b> <b>Notice of Motion for Address to Governor General</b> <b>on Filling Vacant Seats.</b> <b>Hon. Anne C. Cools.</b> . . . . .	2506	<b>Hon. Marjory LeBreton</b> . . . . .	2511
<b>Human Rights</b> <b>Notice of Motion to Authorize Committee to Refer Documents</b> <b>from Study on Bill S-21 During First Session, Thirty-eighth</b> <b>Parliament to Study on Bill S-207.</b> <b>Hon. A. Raynell Andreychuk</b> . . . . .	2507	<b>Hon. Lowell Murray</b> . . . . .	2511
<b>Legal and Constitutional Affairs</b> <b>Notice of Motion to Authorize Committee to Extend Date of</b> <b>Final Report on Study of Benefits and Results Achieved</b> <b>through Court Challenges Program.</b> <b>Hon. Donald H. Oliver.</b> . . . . .	2507	<b>Veterans Affairs</b> <b>Veterans Independence Program—Coverage of Spouses</b> <b>of Veterans of World War II and Korean War.</b> <b>Hon. Catherine S. Callbeck.</b> . . . . .	2511
		<b>Hon. Marjory LeBreton</b> . . . . .	2511
		<b>Official Languages</b> <b>Linguistic Duality—Consultation on Priorities.</b> <b>Hon. Maria Chaput</b> . . . . .	2512
		<b>Hon. Marjory LeBreton</b> . . . . .	2512
		<b>Delayed Answers to Oral Questions</b> <b>Hon. Gerald J. Comeau</b> . . . . .	2512
		<b>International Trade</b> <b>France—Boycott of Seal Products.</b> <b>Question by Senator Cowan.</b> <b>Hon. Gerald J. Comeau (Delayed Answer).</b> . . . . .	2512
		<b>Budget 2007</b> <b>Spending on Aboriginal Peoples.</b> <b>Question by Senator Milne.</b> <b>Hon. Gerald J. Comeau (Delayed Answer).</b> . . . . .	2513



	PAGE
<b>Constitution Act, 1867</b>	
Bill to Amend—Report of Special Committee on Subject Matter— Point of Order Withdrawn.	
Hon. Anne C. Cools. . . . .	2513

## ORDERS OF THE DAY

<b>Personal Watercraft Bill (Bill S-209)</b>	
Third Reading—Debate Adjourned.	
Hon. Tommy Banks. . . . .	2513
Hon. Gerald J. Comeau . . . . .	2513

<b>Sales Tax Amendments Bill, 2006 (Bill C-40)</b>	
Second Reading.	
Hon. Pierrette Ringuette . . . . .	2514
Referred to Committee. . . . .	2515

<b>Kyoto Protocol Implementation Bill (Bill C-288)</b>	
Report of Committee—Motion in Amendment— Debate Continued—Vote Deferred.	
Hon. Ethel Cochrane . . . . .	2517
Hon. W. David Angus . . . . .	2518
Hon. Consiglio Di Nino . . . . .	2521
Hon. Terry Stratton . . . . .	2523

	PAGE
Hon. James S. Cowan. . . . .	2523
Hon. Anne C. Cools. . . . .	2523
Hon. Lowell Murray . . . . .	2523
Hon. Gerald J. Comeau . . . . .	2524

<b>Constitution Act, 1867</b>	
Report of Special Committee on Motion to Amend— Motion in Amendment—Debate Continued.	
Hon. Joan Fraser. . . . .	2524

<b>Study on Recent Reports and Action Plan Concerning Drinking Water in First Nations' Communities</b>	
Report of Aboriginal Peoples Committee—Debate Adjourned.	
Hon. Gerry St. Germain. . . . .	2526
Hon. Tommy Banks. . . . .	2526

<b>Internal Economy, Budgets and Administration</b>	
Seventeenth Report of Committee Adopted.	
Hon. George J. Furey. . . . .	2527

<b>Study on International Obligations Regarding Children's Rights and Freedoms</b>	
Motion to Adopt Report of Human Rights Committee and Request for Government Response—Debate Concluded.	
Hon. A. Raynell Andreychuk . . . . .	2527
Hon. Gerald J. Comeau . . . . .	2529
Hon. Terry Stratton . . . . .	2529

<b>Appendix . . . . .</b>	i
---------------------------	---







*If undelivered, return COVER ONLY to:*  
Public Works and Government Services Canada  
Publishing and Depository Services  
Ottawa, Ontario K1A 0S5





CANADA

# Debates of the Senate

---

1st SESSION

•

39th PARLIAMENT

•

VOLUME 143

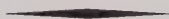
•

NUMBER 104

---

OFFICIAL REPORT  
(HANSARD)

**Wednesday, June 6, 2007**



THE HONOURABLE NOËL A. KINSELLA  
SPEAKER



## CONTENTS

(Daily index of proceedings appears at back of this issue).

---

*Debates and Publications:* Chambers Building, Room 943, Tel. 996-0193

Published by the Senate  
Available from PWGSC – Publishing and Depository Services, Ottawa, Ontario K1A 0S5.  
Also available on the Internet: <http://www.parl.gc.ca>

## THE SENATE

Wednesday, June 6, 2007

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

### SENATORS' STATEMENTS

#### SIXTY-THIRD ANNIVERSARY OF D-DAY

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I rise today to mark the sixty-third anniversary of the D-Day invasion. June 6 is an important and nation-building date, marking one of history's greatest battles, D-Day. We honour the Canadian heroes who fought and died in that battle. Tens of thousands of Canadian soldiers, sailors and airmen took part in what many believe is the most important seaborne invasion of all time. This storming of the beaches by Canada and our allies marked the beginning of a long and arduous campaign, eventually freeing Europe from Nazi tyranny.

Canadians remember the extraordinary courage and sacrifice which made D-Day a success and which proved to be a turning point of the Second World War. From coast to coast, from communities large and small, from farms, fishing villages, indeed from every corner of Canada, these Canadian heroes risked everything in the defence of their country and in the advancement of freedom.

Honourable senators, on the anniversary of D-Day landings, we honour and pay tribute to the Canadians who fought that day, including the more than 2,000 who never returned. We must never forget their sacrifice or fail to defend what they fought for.

[Translation]

#### LES GRANDS BALLETS CANADIENS DE MONTRÉAL

##### RETIREMENT OF PRIMA BALLERINA ANIK BISSONNETTE

**Hon. Céline Hervieux-Payette (Leader of the Opposition):** Honourable senators, tonight, for the last time, prima ballerina Anik Bissonnette will dance on stage with Les Grands Ballets Canadiens de Montréal, at a gala in her honour.

Anik Bissonnette is the best known ballerina in Quebec, and to date, the greatest and most internationally renowned dancer to have danced with Les Grands Ballets Canadiens.

• (1335)

She started studying classical ballet at the age of 12. Her outstanding sense of music, the purity of her movements and her extraordinary balance were noticed very quickly.

Anik Bissonnette started her dance training at the school of Les Grands Ballets Canadiens, but left that institution a year later to study jazz ballet at the school of Eddy Toussaint, one of the

founders of the Ballets Jazz de Montréal. There, she immediately teamed up with their star dancer Louis Robitaille, whom she later married.

With the Gala des Étoiles, Anik Bissonnette brought Canadian and Quebec culture to the world, especially when she danced the title role in *Giselle* with the Odessa Ballet in Ukraine, or when she stood out in *Swan Lake* with the Paris Opera and in *Romeo and Juliet* with the Ballets du Capitole, in Toulouse, France.

As principal dancer with Les Grands Ballets Canadiens, she shone in diverse works such as *The Nutcracker*, *Coppelia*, *La Fille Mal Gardée*, and *Les Sylphides*.

Anik Bissonnette received a number of awards during her career, including being made an Officer of the Order of Canada in 1995 and a knight of the Ordre national du Québec in 1996.

Honourable senators, now that the government no longer cares about culture, that our festivals in Quebec are waiting for the promised funding they need to survive and that the international touring budget for the Grands Ballets Canadiens has been cut, I hope that the curtain that falls tonight on Anik Bissonnette's magnificent career will not mark the beginning of a dark time for our artists.

As a parliamentarian who recognizes the importance of the arts in our lives, I wish Anik Bissonnette every success in her future endeavours, which, to our great delight, will continue to be in the field of dance.

#### ABORIGINAL LAND CLAIMS PROCESS

**Hon. Aurélien Gill:** Honourable senators, on several occasions, including in March 2001, I reminded this chamber of the danger of resolving land claim issues in a piecemeal fashion in response to crises, or worst of all, in the interests of the government in power.

First Nations from Oka, Ipperwash, Caledonia and many other places have their frustration and anger at the slow pace, the injustice and the suffering.

The federal government must speed up the land claims process and resolve Aboriginal territorial disputes with dignity. In his report on the events at Ipperwash, Justice Sidney Linden found that the government's apparent unwillingness to resolve Aboriginal land claim issues was one of the factors that contributed to Dudley George's death.

According to the judge, the federal government was partly responsible for the tragedy at Ipperwash because it allowed the matter, which should have been closed in 1945, to fester. Ottawa requisitioned the land on which there is an Aboriginal burial site, promising to return it to the communities at the end of the Second World War.



To this day, that promise has not been kept. Failures like these have led to recurring conflicts instead of negotiations in good faith.

Justice Linden's report clearly shows that negative stereotypes of Aboriginals, racism and cultural insensitivity on the part of police officers and certain politicians contributed to the inability to find a peaceful solution to the Ipperwash occupation.

Still today, Aboriginals are often thought of as guilty or incompetent until they repeatedly prove themselves otherwise. When they ask for past injustices to be remedied, they are perceived as activists and professional whiners. The appalling living conditions that are endemic in most First Nations communities have been well documented. Everyone is aware, but no one is in a hurry to correct the situation. Of course, it cannot go on any longer. Our communities cannot remain poverty-stricken forever. They must get their fair share of Canada's collective wealth.

As a final point, I would like to congratulate Justice Linden and his team for their conscientious work. We must recognize that, generally speaking, the judicial system addresses the situation facing Aboriginals objectively, which is not always the case of policy makers.

In my view, it should not be necessary to resort to blocking roads or rail lines, which in many cases are on First Nations lands, in order to make the Aboriginal message heard. Instead of reacting to confrontations, governments must assume their responsibilities and create an atmosphere conducive to peaceful, calm dialogue. As Justice Linden indicated, greater cooperation is essential to settling land claims more rapidly.

Dudley George was another victim of wickedness and of the lack of both compassion and a sense of responsibility.

• (1340)

#### CANADIAN SUMMIT OF FRANCOPHONE AND ACADIAN COMMUNITIES

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, I rise today to join my voice to that of my colleague, Senator Chaput, in drawing attention to the Summit of Francophone and Acadian Communities, which took place on June 1, 2 and 3, 2007, in Ottawa. Like many of you, I attended this major gathering of Canada's Francophonie to discuss and reflect on our future as a community.

Organized by the Fédération des communautés francophones et acadiennes, this event was an opportunity to reflect on our future and on issues such as governance, demographics, services, political influence and the economic development of our communities.

As the Commissioner of Official Languages said in his speech on June 2:

Feeling all the positive energy emanating from this room, from the Summit, is simply amazing. Everyone here is moving in the same direction: toward the future.

In fact, all weekend long, the representatives of this country's francophone and Acadian communities looked to their future

and worked to develop a vision and a long-term plan. In addition to attending workshops, we had the honour of listening to several eminent speakers who shared their impressions of our communities. What struck me about the community representatives, the participants and the guest speakers alike was their positive energy, their commitment and their optimism about the future.

Despite the challenges facing them, francophone and Acadian communities are not afraid of the future and they want to continue promoting our language, our culture and our many contributions to Canadian society. As Antonine Maillet so aptly put it, the French language is a Stradivarius, and when in possession of a Stradivarius, one has to make sure to keep it, take good care of it and protect it in order to pass it on to our children and grandchildren.

Honourable senators, the signing of the summit declaration by all the community representatives confirms what Mr. Fraser said in his speech: "Rumours of the impending death of Canada's Francophonie have been greatly exaggerated."

Honourable senators, I am certain that you join with me in congratulating the Fédération des communautés francophones et acadiennes, the organizing committee and all the participants and volunteers on a very successful summit.

[English]

#### THE HONOURABLE DAVID P. SMITH, P.C.

##### CONGRATULATIONS ON RECEIVING QUEEN'S UNIVERSITY H.R.S. STUART RYAN LAW ALUMNI AWARD

**Hon. Jim Munson:** Honourable senators, I rise today to congratulate a colleague of ours, the Honourable David P. Smith. On May 22, our colleague was awarded the H.R.S. Stuart Ryan Law Alumni Award by Queen's University.

**Hon. Senators:** Hear, hear!

**Senator Munson:** This award recognizes a Queen's law alumnus who excels in the profession, provides exceptional community work and has contributed to the law school. Senator Smith, a Queen's law graduate in 1970, has achieved and continues to achieve all this.

The guest speaker at the event was the Right Honourable Beverley McLachlin, Chief Justice of Canada. Numerous other dignitaries attended the event, which also celebrated the fiftieth anniversary of the Queen's University Law School.

We congratulate Senator David Smith for his accomplishments and join with Queen's in celebrating this great Canadian colleague and friend.

• (1345)

#### SIXTY-THIRD ANNIVERSARY OF D-DAY

**Hon. Michael A. Meighen:** Honourable senators, lest we forget, today marks the sixty-third anniversary of the Battle of Normandy, commonly known as D-Day. On this day,

Canadians, along with their allies from Britain, the United States and Poland, as well as Free French soldiers, stormed the French coast in a colossal effort that paved the way for the liberation of Europe from occupation by Nazi Germany. To this date, the Battle of Normandy remains the largest seaborne invasion in history.

Today, Canada stands shoulder to shoulder with many of these same allies in Afghanistan. Although this is a completely different battle in a completely different type of war, Canada's commitment to achieving its goals remains just as strong as it did when our soldiers landed on the beaches of Normandy 63 years ago.

When I visited Afghanistan last December, I saw firsthand the progress that has been made in securing and rebuilding that country. We have a long way to go, but progress has been accomplished. Canadians are making a real difference there and we should be proud of what has been achieved up to now under extraordinarily difficult circumstances.

Honourable senators, last Sunday marked another significant day. Every year, Canadian Forces Day is celebrated on the first Sunday of June. Canadian Forces Day recognizes the achievements of and contributions made by members of the Canadian Armed Forces. This year's theme, "The Canadian Forces family — Celebrating Those Supporting Us," emphasizes the important role that families play in supporting Canada's sailors, soldiers, airmen and air women. Behind the soldiers who participated in the D-Day invasion were strong supportive families, just as families stand behind our troops today.

Saying goodbye to those departing overseas is no easy task, yet the families of our servicemen and women continue to show their support, knowing their loved ones are making a difference in this world.

It is only fitting that these two commemorative days occur so close together, based as they are on the common element that has remained constant throughout the years: The support of families. The families of our troops provided the necessary backbone for the accomplishments of our men and women in uniform in past years, and the families of servicemen and women continue to provide that support today.

[Translation]

As we recognize and honour the progress and sacrifices made in Afghanistan, let us remember the exploits of the brave soldiers on French beaches 63 years ago. Let us never forget and let us not neglect the families who provided their support in the past and those who are doing the same today. With the support of their families, these brave men and women have fought and are fighting today to defend the values and principles cherished by Canadians.

[English]

**Hon. Roméo Antonius Dallaire:** Honourable senators, I wish to speak also of D-Day and June 6.

In 1944, the Canadian army was the third largest army on the Western Front; the Canadian air force had the third largest air force; and the Canadian navy the third largest navy on the

Western Front. Canada at that time had one million men and women serving in uniform in that great war.

There is, however, a point I wish to raise regarding Canadian generalship. Generals McNaughton and Simonds, who commanded the Canadian army throughout that war, never once sat on any of the strategic bodies of that war. We had a million men and women in uniform and none of our generals sat on any of the strategic decision bodies of that war.

Over the years, we have seen Canadian generalship involved in peacekeeping in the Middle East and in other roles throughout our recent history. It is, however, interesting to note that Canadian generalship has been stymied by artificial constraints on the number of generals that the Canadian Forces should have, and imposed by previous governments not on the basis of requirement but on the basis of optics. That is, how many generals should the Canadian Forces have? In so doing, we have limited Canadian generalship to a role that I fear will remain one of tactical support and not of generalship within the great bodies of the world.

Honourable senators, time and again the United Nations has asked for Canada to provide two- and three-star generals to command UN missions around the world. Not long ago, one of the largest UN missions, the Congo, was offered to Canada and Canada refused. Recently, NATO has turned to Canada and asked for a three-star general to establish the headquarters in Pakistan in order to help coordinate the efforts in Afghanistan. Once again, Canada has refused to send generals.

If we do not give our generals the opportunity to serve in higher strategic realms, Canada, Canadian governments and Canadian leadership will not have the military advice they require in order to ensure Canadian Forces are deployed appropriately throughout the world in the very complex missions of today and the future.

• (1350)

## ROUTINE PROCEEDINGS

### RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

#### SIXTH REPORT OF COMMITTEE PRESENTED

**Hon. Wilbert J. Keon,** Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament, presented the following report:

Wednesday, June 6, 2007

The Standing Committee on Rules, Procedures and the Rights of Parliament has the honour to present its

#### SIXTH REPORT

Pursuant to Rule 86(1)(f)(i), your Committee is pleased to report as follows:



1. The issue of the reinstatement of bills from the previous session of the same Parliament has been raised in the Senate on a number of occasions in recent years. The Senate does not currently have any provision in its Rules dealing with the reinstatement of bills following a prorogation. As a result, some bills, particularly non-government bills, have been reintroduced and debated or studied in a number of successive sessions.

2. Since 1998 the House of Commons has provided for the reinstatement of non-government bills from the previous session in the same Parliament. Provision was originally made that an item of Private Members' Business would be reinstated at the request of the Member in question, although it is now automatic. Non-government public bills originating in the Senate can also be reinstated in the Commons at the same stage they had reached during the prior session if such bills are re-introduced in the House of Commons within the first 60 sitting days of the session, after being passed again by the Senate, and the Speaker of the House of Commons is satisfied that the bills are in the same form as they were at the time of prorogation. In the case of government bills from the Commons, reinstatement is not automatic, but may be effected by passing a motion to that effect. From time to time, the government has proposed a general motion in a second or subsequent session of Parliament allowing it to reinstate bills if certain conditions are met.

3. A review of reinstatement in provincial and territorial legislatures indicates that there is a range of practice on this matter. In nine of the 13 legislatures, there does not appear to be a practice of reinstating bills. In Alberta, the Standing Orders provide that a government bill can be reinstated on motion in a new session of the same Legislature. In Manitoba, on the other hand, reinstatement is by way of *ad hoc* motions in a new session. In Ontario, provision for carry-over of bills has sometimes been made at the end of one session and sometimes at the beginning of a new session in the same Legislature. Finally, in Quebec, reinstatement of bills in a new session of the same Legislature is made by a motion of the Government House Leader in the first three sitting days after debate on the opening speech.

4. Both the House of Lords and the House of Commons in the United Kingdom provide for the reinstatement or carry-over of bills between sessions of the same Parliament. In the House of Lords, this is restricted to bills that have not yet left the House, and is based on *ad hoc* motions after informal consultations. In the House of Commons, measures were established in 2002 to allow for the reinstatement of bills. One reason for this change was to avoid duplication of work. It is also felt that it results in legislation being reviewed in a less rushed environment with a longer time perspective, allowing for more thorough scrutiny.

5. It must be noted that in no case does reinstatement apply between Parliaments.

6. The Senate and individual senators have no control over when prorogation occurs. Unlike other legislative bodies, the Canadian Parliament does not have annual

sessions. Given the length of time that bills often take to work their way through the legislative process, and the time and energy that can be invested in the consideration of bills, the concept of reinstatement has merit.

7. At the same time, your Committee believes strongly that no reinstatement provision should be automatic. Each proposal to reinstate a bill must be considered separately, on its own merits. Your Committee is also of the view that it is appropriate for the Speaker to review a bill whose reinstatement is proposed, in order to ensure that it is indeed in the same form as a bill from the previous session. Your Committee further believes that it should be available for all bills: government bills, senators' public bills and private bills originating in the Senate, as well as for government and private members' bills from the House of Commons. In no case, however, should third reading of any bill in the Senate be dispensed with in the new session.

**Your Committee recommends that the *Rules of the Senate* be amended as follows:**

**(1) That the following new rule 80.1 be added after current rule 80:**

*Reinstatement of a bill from the previous session*

**80.1. (1) A public or private bill may be reinstated from the previous session only pursuant to this rule.**

*Senate bill*

**(2) During the first twenty-one sitting days of the second or subsequent session of a Parliament, a Senator may, upon presenting a bill which is then read a first time, immediately advise the Senate that it is in the same form as a Senate bill when introduced during the preceding session.**

*Commons bill*

**(3) During the first thirty sitting days of the second or subsequent session of a Parliament, a Senator may, immediately following receipt by the Senate of a message from the House of Commons with a bill which is then read a first time, advise the Senate that it is in the same form as a Commons bill when received by the Senate during the preceding session.**

*Notice of motion to reinstate a bill*

**(4) After advising the Senate either under subsection (2) or (3), the Senator shall then immediately give notice of a motion that the bill be reinstated.**

*Definition of "same form"*

**(5) For the purposes of this rule, a bill shall be considered to be in the same form only if the text of the following elements are identical to those in the version as introduced during the preceding session: title, preamble, clauses, schedules, headings, marginal notes, summary, and Royal Recommendation.**

*Tabling text of committee amendments*

(6) If, under paragraph (13)(c), the reinstatement of a bill would require consideration of amendments recommended by a committee during the previous session, the Senator shall, when giving notice of a motion to reinstate, lay upon the Table the text of the amendments proposed in that report.

*Tabling list of amendments*

(7) If, under paragraph (13)(e), the reinstatement of a bill would result in amendments from the preceding session being deemed made to the bill, the Senator shall, when giving notice of a motion to reinstate, lay upon the Table a list of the amendments that will be incorporated into the bill if the motion is adopted.

*Reinstatement of a government bill*

(8) A bill that was a government bill during the preceding session shall only be reinstated if it is again introduced as a government bill.

*Reinstatement of a Senate public or private bill*

(9) Only the Senator who presented a Senate public or private bill during the preceding session may act under subsection (2). If, however, the Senator who introduced the original bill is Speaker, is a Minister of the Crown, is Deputy Leader of the Government in the Senate, is retired, is deceased, or has resigned, any Senator may act under subsection (2).

*Reinstatement of a private bill*

(10) For greater certainty, a private bill may be reinstated only if, pursuant to rule 109, the presentation and first reading are preceded by a favourable report on the petition.

*Speaker to advise Senate that bill is in same form*

(11) A motion to reinstate a bill shall not be moved until the Speaker has advised the Senate that the bill is in the form described in subsection (2) or (3), as the case may be. If documents relating to the bill must be tabled under either subsection (6) or (7), the Speaker shall also advise the Senate whether the documents tabled are accurate. If the Speaker advises the Senate that any of these requirements have not been met, the notice of motion to reinstate the bill shall be withdrawn and the Speaker shall forthwith ask when the bill shall be read a second time.

*Delayed application of rule 27(3)*

(12) Rule 27(3) shall not apply to a notice of motion to reinstate a bill until after the Speaker has advised the Senate pursuant to subsection (11).

*Procedures for consideration and effect of motion*

(13) A motion to reinstate a bill shall be deemed a substantive motion, but shall not be amendable, except as provided in paragraph (b). The motion may be debated for no more than two hours. The Speaker shall put all questions

necessary to dispose of the motion no later than the fourth sitting day the order for resuming debate is called. If the motion is negatived, the Speaker shall forthwith ask when the bill shall be read a second time. If the motion is adopted, the bill shall be dealt with as follows:

*Second reading*

(a) If the original bill was under consideration at second reading in the preceding session, the reinstated bill shall be placed on the Orders of the Day for second reading at the next sitting.

*Committee study*

(b) If the original bill was before a standing committee in the preceding session, the reinstated bill shall be referred to the same committee. If the original bill was before a special committee, the motion to reinstate the bill shall specify a committee to which it shall be referred and, in this case only, the motion may be amended to specify a different committee. In either case, the papers and evidence received and taken and the work accomplished on the original bill in committee are deemed referred to the committee during the current session.

*Report stage*

(c) If a committee report recommending one or more amendments to the original bill was before the Senate in the preceding session, the amendments recommended by the committee shall be deemed to have been presented to the Senate and shall be placed on the Orders of the Day under Reports of Committees for consideration at the next sitting.

*Third reading*

(d) If the original bill was under consideration at third reading in the preceding session, or if the original bill was adopted at third reading and passed by the Senate without amendment, the reinstated bill shall be placed on the Orders of the Day for third reading at the next sitting.

*Amendments from preceding session deemed made to bill*

(e) If, in the preceding session,

(i) a report recommending one or more amendments to the original bill was adopted, or

(ii) the original bill was adopted at third reading and passed by the Senate with one or more amendments,

the amendments shall be deemed to have been approved by the Senate upon the adoption of the motion for reinstatement, and the reinstated bill, as amended, shall be placed on the Orders of the Day for third reading at the next sitting. In no other case shall an amendment from the preceding session be deemed made to the bill upon adoption of the motion to reinstate. Notwithstanding any other rule or practice, an



amendment to the bill that is deemed to have been approved by the Senate under this paragraph may be amended or deleted during the course of subsequent proceedings on the reinstated bill during the current session.

*Bills negated during the preceding session*

(14) A bill that was negated by the Senate at any stage in the preceding session shall not be reinstated.

(2) That the following consequential changes be made to rule 58:

- (a) Delete "and" at end of paragraph 58(1)(i);
- (b) Change current paragraph 58(1)(j) to 58(1)(k); and
- (c) Insert new paragraph: "(j) for the reinstatement of a public or private bill under rule 80.1; and".

Respectfully submitted,

WILBERT J. KEON  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Keon, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

**STUDY ON USER FEE PROPOSAL  
FOR INTERNATIONAL YOUTH PROGRAM**

REPORT OF FOREIGN AFFAIRS AND  
INTERNATIONAL TRADE COMMITTEE PRESENTED

**Hon. Consiglio Di Nino**, Chair of the Standing Senate Committee on Foreign Affairs and International Trade, presented the following report:

Wednesday, June 6, 2007

The Standing Senate Committee on Foreign Affairs and International Trade has the honour to present its

**THIRTEENTH REPORT**

Your Committee, to which was referred the document "Department of Foreign Affairs User Fee Proposal relating to the International Youth Program" has, in obedience to the Order of Reference of Tuesday, May 15, 2007, examined the proposed changes to user fees and, in accordance with section 5 of the User Fees Act, recommends that they be approved. Your Committee appends to this report certain observations relating to the proposal.

Respectfully submitted,

CONSIGLIO DI NINO  
*Chair*

**Observations to the Thirteenth Report of the Standing Senate Committee on Foreign Affairs and International Trade**

*(Department of Foreign Affairs User Fee Proposal relating to the International Youth Program)*

**Strengthening the International Youth Program**

The Department of Foreign Affairs and International Trade has tabled a proposal under the User Fees Act to expand fees charged to foreign participants in the International Youth Program. Having discussed the proposal with officials, your Committee supports the general principle of increasing cost recovery in this important program.

Your Committee notes that one reason for expanding fees beyond those already charged to youth from Australia and New Zealand to youth from over 50 other countries relates to increasing administrative costs as the program has grown significantly over the past decade. A more important reason, however, is that this action will allow the government to fund a proposed expansion of the program, with the goals of both almost doubling participation by 2010, and of increasing support given to both Canadian and foreign youth participants. Your Committee finds these to be laudable goals.

Your Committee notes that in 1986, the Neilson Task Force on program review found that the International Youth Program — whose roots stretch back to the 1950s — was relevant to Canada's foreign policy interests, and responsibility for its general management was transferred to the Department of External (later Foreign) Affairs.

During its consultations with stakeholders involved with the International Youth Program, the government heard a number of suggestions for improving it, including creating more awareness of the program among Canadian and foreign youth, and increasing support for participants.

In addition to these useful suggestions, your Committee believes that the government should recognize and take action based on the fact that the global experience gained by Canadian youth participants makes them ideal candidates for recruitment by the Public Service of Canada, which will be undertaking significant recruitment exercises in the coming years. At the same time, the government must also make even greater efforts to convince foreign youth participants of the benefits of immigrating to Canada upon completion of the International Youth Program, and contributing to the country in a variety of ways.

In light of the numerous benefits the International Youth Program provides to both Canadian and foreign youth, your Committee also believes additional efforts must be taken to keep the program — which currently is dominated by youth from such Organization for Economic Cooperation and Development (OECD) countries as Australia, France, the United Kingdom, Japan, New Zealand, Ireland and others — accessible not only to youth from OECD countries, but also to those from other countries, particularly developing ones. While your Committee understands that the Government of Canada

has Commonwealth scholarships and other programs that assist such youth, it believes that these individuals must also be encouraged to participate in the International Youth Program.

Recognizing that such a measure may lead to concerns regarding unequal treatment, your Committee is of the view that the Government of Canada should either waive the new fees for youth from developing countries, or take other measures to ensure that the strengthened International Youth Program remains accessible to them.

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Di Nino, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

### INCOME TAX ACT

#### BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Nancy Ruth,** Deputy Chair of the Standing Senate Committee on National Finance, presented the following report:

Wednesday, June 6, 2007

The Standing Senate Committee on National Finance has the honour to present its

### FIFTEENTH REPORT

Your Committee, to which was referred Bill C-294, An Act to amend the Income Tax Act (sports and recreation programs), has, in obedience to the Order of Reference of Wednesday, May 2, 2007, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

NANCY RUTH  
*Deputy Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Nancy Ruth, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

### THE ESTIMATES, 2007-08

#### SECOND INTERIM REPORT OF NATIONAL FINANCE COMMITTEE PRESENTED

**Hon. Nancy Ruth,** Deputy Chair of the Standing Senate Committee on National Finance, presented the following report:

Wednesday, June 6, 2007

The Standing Senate Committee on National Finance has the honour to present its

### SIXTEENTH REPORT

Your Committee, to which were referred the 2007-08 Estimates, has, in obedience to the Order of Reference of Wednesday, February 28, 2007, examined the said Estimates and herewith presents its second interim report.

Respectfully submitted,

NANCY RUTH  
*Deputy Chair*

(For text of report, see today's Journals of the Senate, Appendix B, p. 1624.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Nancy Ruth, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

• (1355)

### THE SENATE

#### MOTION TO URGE CONTINUED DIALOGUE BETWEEN PEOPLE'S REPUBLIC OF CHINA AND THE DALAI LAMA—NOTICE OF MOTION FOR TIME ALLOCATION

**Hon. Consiglio Di Nino:** Honourable senators, I give notice that at the next sitting of the Senate I shall move — with reluctance:

That it be an Order of the Senate that on the first sitting day following the adoption of this motion, at 3:15 p.m., the Speaker shall interrupt any proceedings then underway; and all questions necessary to dispose of motion number 140 shall be put forthwith without further adjournment, debate or amendment; and that any vote to dispose of the motion should not be deferred; and

That, if a standing vote is requested, the bells to call in the Senators be sounded for thirty minutes, after which the Senate shall proceed to take each vote successively as required without the further ringing of the bells.

### QUESTION PERIOD

#### THE SENATE

#### CALL FOR PASSAGE OF BILLS C-288, C-292 AND C-293

**Hon. Céline Hervieux-Payette (Leader of the Opposition):** Honourable senators, yesterday, Phil Fontaine, the Grand Chief of the Assembly of First Nations, joined environmental activist David Suzuki and Gerry Barr, the President of the Canadian Council for International Cooperation, to urge this minority Conservative government — not very new to me — to respect the will of Parliament and pass three important bills now before our chamber. They were referring to Bill C-288, Bill C-292 and Bill C-293.



With regard to Bill C-288, the Kyoto legislation, the government moved a sub-amendment yesterday to remove a portion of their own amendment. Clearly, this is nothing more than an attempt to filibuster the progress of Parliament.

I should like to remind this chamber of something a Leader of the Opposition said in his address in reply to the Speech from the Throne back in 2004: "I will always bear in mind that the people express their wishes as much through the opposition as through the government."

Honourable senators, that Leader of the Opposition was Stephen Harper. I ask the minister today if she agrees with the wise words of her leader.

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for her question. Perhaps she could have added other important government initiatives to the wish list, like our justice bills and Bill S-4.

Various newspapers today carried the comments of Mr. Fontaine, Mr. Suzuki and Mr. Barr, each of whom obviously has an interest in one or other specific bill.

One of the bills, C-293, is before the Senate. The Kelowna press release is a matter of some debate here in the Senate, and I understand at some point it will be sent to committee. With regard to Bill C-288, the private member's bill on the Kyoto Protocol, it is clear that the implementation of this bill will have serious economic consequences for this country. This information was provided by third parties not only to this present government but to the previous government, which chose not to make it public.

• (1400)

At the moment, the Prime Minister and the Minister of the Environment are overseas at the G8 meeting. The Prime Minister was clear when he spoke in Berlin on Monday. He spoke of something that we all know full well, that is, that it has been well acknowledged, not only by members of the government party but of the opposition party as well, that it is impossible for Canada to meet its Kyoto targets. Furthermore, some members of the party opposite have indicated publicly that Kyoto was signed only to outdo the United States, that the government had no intention of implementing it.

**Senator Hervieux-Payette:** Since the Leader of the Government in the Senate has talked about Bill S-4, I should like to inform this chamber that, yesterday, one member of the opposite side was talking about the letters, correspondence and briefs sent by the various governments of this country, saying that their opinions were not worth the paper on which they were written.

I wish to remind the Leader of the Government of another quote by our Prime Minister, this time in an interview with the *Victoria Times Colonist* — very well read in Quebec, as she knows — on September 10, 2004.

He said:

It is the Parliament that's supposed to run the country, not just the largest party and the single leader of that party.

[ Senator Hervieux-Payette ]

When will this minority government stop the filibuster vis-à-vis these important bills and let the will of this Parliament prevail and pass Bill C-288, and eventually Bills C-292 and C-293?

**Senator LeBreton:** The opposition leader has presented us with a new definition of filibuster. In fact, in terms of many of the amendments, members on this side were denied the opportunity to make those amendments in committee by the tactics of the opposition members of that committee, which is the subject of a question of privilege before this very house.

With regard to the private member's bill involving Kyoto, since the Leader of the Opposition is intent on reading quotations into the record, permit me to read several myself.

In *The Globe and Mail*, on March 8, Christine Stewart, who, by the way, was an environment minister, said about Mr. Dion's time as Minister of Intergovernmental Affairs the following — and I quote:

... I think what I am saying is he wasn't against [Kyoto], but he was not a champion. But then he wasn't unique. If you can find a champion [in that Liberal cabinet], let me know.

David Anderson, another former Minister of the Environment, told the Canadian Press on February 7 that Paul Martin's appointment of Mr. Dion as Minister of the Environment was meant to send to the provinces, "a signal things would not be as aggressive."

I have quoted Eddie Goldenberg previously. Senator Mitchell asked me if he ever had a vote. Well, he had more than a vote. Everyone around this place knows that he practically ran the government for Jean Chrétien. Mr. Goldenberg revealed that the Liberals went ahead with the Kyoto Protocol even though they knew there was a good chance Canada could not meet its goals. In a speech to the Canadian Club in London, Ontario, on February 22 of this year, Mr. Goldenberg said:

Nor was the government itself even ready at the time with what had to be done. The Kyoto targets were extremely ambitious and it was very possible that short term deadlines, would at the end of the day, have to be extended.

• (1405)

[Translation]

## HERITAGE

### SUPPORT FOR THE ARTS— FUNDING OF SUMMER FESTIVALS

**Hon. Jean Lapointe:** Honourable senators, my question is for the Leader of the Government in the Senate. According to the superb article by Nathalie Petrowski, published in *La Presse* this morning, the Minister of Canadian Heritage, Bev Oda, has announced her intention to attend various festivals this summer.

Does the minister not think that, rather than seeking to enjoy herself, as she told *La Presse* this week, she and her department's officials should double their efforts and release the funds allocated to the festivals so that the public — not the minister — can enjoy themselves this summer?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I have not seen the particular newspaper article the honourable senator refers to, but I thought I would get a question on summer festivals from him, so I came well armed.

I wanted to let the honourable senator know yesterday, when we were talking about festivals, with regard to an important comedy festival in the city of Montreal, called Just for Laughs, that, yesterday, Minister Oda said that it will be receiving \$1.2 million in funding.

**Senator Cools:** Are we in Question Period yet? I do not hear any questions being answered.

[Translation]

**Senator Lapointe:** I have a supplementary question. Would it be possible to obtain a copy of the agenda of the Minister of Canadian Heritage, in order to notify the various welcoming committees? They could then make sure she enjoys herself thoroughly during these events and, in particular, arrange for simultaneous interpretation so that she truly understands what is going on in Quebec.

[English]

**Senator LeBreton:** Minister Oda is a busy minister, but I am sure she would never pass up an opportunity to have a good time, especially if she gets to go to Quebec and attend the Just for Laughs festival.

Many other festivals have been funded, not only in Quebec, but also around the country. I indicated yesterday that I would be getting a list of the various festivals that were funded. There are many large festivals in Quebec, as I mentioned yesterday, which will receive funding anywhere from \$300,000 up to \$1.2 million.

Of particular interest to a group here in Ottawa, the Franco-Ontarian Festival received \$40,000 on May 23 from the Arts Presentation Program, and is receiving another \$90,000 from another program within the Department of Heritage, for a total of \$130,000. As a resident of Ottawa, I know how important the Franco-Ontarian Festival is. A few years ago they were very concerned about their funding, and I am certain that they are happy that the government has stepped forward to fund the festival this year.

[Translation]

**Senator Lapointe:** Once again I must congratulate the Leader of the Government in the Senate. Not only is she an excellent tap dancer, a violin virtuoso, a verbal acrobat, and a contortionist, I see now that she is also a great cellist.

In short, what I was talking about was the festivals that have not received the \$30 million to run this summer. Summer festivals, as you very well know, do not take place in the fall; normally they take place during the summer. Do you think the money will be

available in time for this summer? This is the last time I will ask the question.

• (1410)

I do not want to bother you with all this; you have so many talents that you do not have to rehearse, but will the money required for this summer be given to the festival organizers in Quebec? I am not talking about British Columbia or anywhere else festivals are held; I know you have a fondness for that side. Can you give me the assurance that the \$30 million will be available in time for the summer festivals?

[English]

**Senator LeBreton:** Honourable senators, given all the talents that the honourable senator thinks I have, perhaps I should apply for a festival grant, but the truth is that I have absolutely no talent in the area of music.

In answer to the honourable senator's question, as I indicated yesterday, funding is flowing for summer festivals in Canada. I indicated yesterday that I would be happy to obtain a list of the festivals in Quebec that have been funded, which is specifically what the honourable senator is asking about.

With respect to festivals that are not held during the summer, I have tried to communicate that the existing funding for festivals must not be confused with new funding mentioned in Budget 2007 that the government will put into the program. As I indicated in response to previous questions, the department is developing a set of criteria for the proper application by various groups to access the new fund.

I know well that the honourable senator is talking about summer festivals and I will attempt to obtain a list of the festivals in Quebec that have been funded this year with existing funds.

[Translation]

## STATUS OF WOMEN

### GOVERNOR GENERAL'S AWARDS IN COMMEMORATION OF THE *PERSONS* CASE

**Hon. Lucie Pépin:** Honourable senators, my question is for the Leader of the Government in the Senate. As we all know, through the famous *Persons* case, Emily Murphy, Louise McKinney, Irene Parlby, Nellie McClung and Henrietta Muir Edwards achieved an important victory in 1929, convincing the Privy Council in London to recognize women as "persons".

Since that time, women have been able to sit in the Senate and run for public office. These days, indeed every year since 1979, we commemorate this event by presenting the Awards in Commemoration of the *Persons* case. This Governor General's Award highlights the leadership and excellence of Canadian women who have made an outstanding contribution. This year's nomination process, however, has not yet begun. The process usually begins in March. Despite the fact that Status of Women



Canada saw its budget reduced by 40 per cent and its offices decreased from 16 to four, can the leader of the Government in the Senate assure us that these awards will be presented as planned in October 2007?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for the question. I am well aware of the Governor General's Awards in Commemoration of the Persons Case, the Famous Five and the memorial statue on Parliament Hill, which I had the pleasure of co-sponsoring in this place with Senator Fairbairn. I am also well aware that the Persons Awards were started in 1979 under the government of then Conservative Leader Joe Clark. I will take the honourable senator's question as notice in respect of the application and adjudication process for this year's awards and will obtain that information for her. I thank the honourable senator for bringing the matter to my attention.

[Translation]

**Senator Pépin:** Honourable senators, I know the Leader of the Government in the Senate is very familiar with this file, hence my concern. That is why I am concerned about it at the present time. The government's silence on this issue is worrisome. Can the Leader of the Government in the Senate tell us why there has been no progress in this file? Can we expect a timely response rather quickly?

• (1415)

[English]

**Senator LeBreton:** The brief answer is that I do not know. I will certainly try to find out.

[Translation]

## NATIONAL DEFENCE

### SUPPORT FOR MILITARY FAMILIES— RESPONSE TO CRISIS SITUATIONS

**Hon. Roméo Antonius Dallaire:** Honourable senators, my question is for the Leader of the Government in the Senate. We always have a great deal of respect for people who can manage crises. However, the questions that keep coming up immediately after a crisis are: How did we end up in crisis and why was the situation not prevented?

Recently, we saw this type of crisis with the children of soldiers who suffered trauma and did not receive proper support. We also noticed, in the situation concerning the reimbursement of funeral costs, that the government failed in its duty to meet pressing and real needs.

What reason is there to be in crisis when, in the mid-1990s, a directorate was created within the Department of National Defence specifically to ensure quality of life for the military? This directorate was created to meet the needs of the time and its mandate was to ensure that such situations did not happen again.

[ Senator Pépin ]

In the 1990s, these types of situations arose after 40 years of peace. Can the Leader of the Government in the Senate tell us why these responsibilities have been dropped from this mandate and why we are now demoralizing soldiers and their families with crisis situations that could have been prevented?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for his question. I believe all people will acknowledge that this government has made great strides in supporting our soldiers, our military and our veterans. With regard to the unfortunate circumstance of the one particular family, as the honourable senator knows, there were Treasury Board guidelines set by the previous government as to what would be an allowable expense for the unfortunate event of a funeral.

We are in the process of increasing the amount in those guidelines. In the situation of this particular family, they had been paid up to the allowable guidelines. They had expenses well beyond that. The Department of National Defence has been in contact with the family and has sent additional funds.

The guidelines are being increased substantially and the Department of National Defence has undertaken to contact each and every family who has suffered the loss of a loved one to ascertain whether similar situations have existed in the past over the death of their loved ones in Afghanistan.

With regard to the matter of looking after widows, widowers and children, Senator Dallaire was involved in the Veterans Bill of Rights. It was unanimously supported in Parliament. It was introduced by the Martin government and brought into force by the Harper government.

When there is a death, as the honourable senator knows, considerable sums of money are paid out to the widows, widowers and children of deceased soldiers. It was never intended for that program to be used as an insurance policy.

I would hope that when young people are being recruited into the Armed Forces, the various services of the department are explained to them and the various situations that they may find themselves in are fully explained as to what their families, in the event of an untimely event, should expect. I believe the government, the Minister of Veterans Affairs, the Minister of Defence and the Chief of Defence Staff have all worked very hard to rectify this very unhappy and sad situation.

• (1420)

**Senator Dallaire:** I acknowledge the crisis management scenario that has gone on and responses thereto. However, from a privileged position, may I just recall that in the early to mid-1990s, there were massive cuts within government due to an absolutely exponential debt. These cuts in all ministries were substantive and, in National Defence, were not insignificant; they were up to even a third of the department's capability. In the process of solving that problem, we realized that Quality of Life was one of the primary areas that was attacked, because it is

soft. One can cut Quality of Life; it is easier than cutting trucks. We had to inject in the 1990s significant amounts of money, to the tune of nearly \$500 million a year, to respond to that problem.

Most important, we created, at the time, a directorate of Quality of Life that had the mandate and was funded to meet all of these requirements. However, that directorate does not exist today. Its strength has been reduced to nil. The money is not there anymore. The government will continue to have these embarrassments if we do not bring that capability back to anticipate proactively these problems.

I ask the Leader of the Government in the Senate to ask the Minister of National Defence to have another look at Quality of Life, institute that body as a project office and avoid the embarrassments, which to the government is one thing, but to the troops and their families is another.

**Senator LeBreton:** The Minister of National Defence, the Chief of Defence Staff and the Minister of Veterans Affairs are fully supported by the men and women of the military. Members of the Royal Canadian Legion and many veterans groups have applauded the initiatives of this government in looking after our veterans.

Yesterday, Senator Callbeck asked me about the VIP, or the Veterans Independence Program. As I reported yesterday and repeat today, Minister Thompson has undertaken a comprehensive review. We want the government to do it right this time. He will not approach this in a piecemeal fashion.

Returning to some of the things the government has done, I mentioned the Veterans Bill of Rights and the payment of the \$250,000 that were introduced by the Martin government and enacted by the Harper government. Between the time the bill was introduced and enacted, there were a number of deaths in Afghanistan where there were widows, widowers and children involved. Technically, the bill had not come into force, so these people fell through the cracks. The government immediately stepped in and honoured, back to the introduction stage, its commitments, as if that bill had been passed by the Martin government, and those families were compensated, even though it was not required by the letter of the law. That is the kind of thing the government has done.

Speaking with the Minister of Veterans Affairs and seeing some of the support he has received from veterans, veterans' organizations and the Royal Canadian Legion, I believe that he and our government are taking the lead. We need not take a back seat to anyone in the treatment of our military, by ensuring they have proper equipment and are well served, including our veterans, who should be looked after in every possible way in recognition of their service to this country.

**Senator Dallaire:** That is not a problem. I acknowledge the crisis management. If the leader wants me to say I applaud how the government solved the problems, fine. I am trying to assist her in avoiding future problems by bringing a capability that should exist within the staff system in National Defence. As to Veterans Affairs implementing the Charter, that is another exercise. I am talking about National Defence and Quality of Life.

## VETERANS AFFAIRS

### VIMY RIDGE MEMORIAL— SELECTION OF ON-SITE DIRECTOR

**Hon. Roméo Antonius Dallaire:** By extension, for years the on-site director of the Vimy Ridge Memorial, at Vimy, has always been a Canadian and, more often than not, ex-military. Over the last couple of years, however, civil servants have been filling the role. I am not sure of their qualifications.

• (1425)

Suddenly, in this year of our ninetieth anniversary, the place is run by a British subject. Why did we have to hire someone from the U.K. to run our monument? Is there not at least one Canadian, perhaps a former member of the military, who could run the operations of that monument?

Would the leader get back to me with an answer on that matter?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I would be happy to take that question as notice.

The Chief of the Defence Staff does an outstanding job and is obviously loved by all those who serve in the military. Anyone could zero in on a specific area to which they thought more attention should be paid.

With regard to the Vimy Ridge Memorial, I am sure there is a good and valid answer to the question and I will be happy to try to obtain that for the honourable senator.

## FINANCE

### ATLANTIC ACCORD— OFFSHORE OIL AND GAS REVENUES

**Hon. Jane Cordy:** My question is directed to the Leader of the Government in the Senate. The budget of Canada's new Conservative government does not honour the Atlantic Accord, a signed agreement between the federal government and the Provinces of Newfoundland and Labrador and Nova Scotia. It appears that the signing of the accord and promising to honour the agreement was only meant to last until the election was over.

When will the Conservative government end the betrayal of Atlantic Canadians and honour the Atlantic Accord?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, as our colleague Senator Carney has pointed out many times, there would have been no Atlantic Accord in the first place if it were not for Conservative governments. The Liberals not only fought against the Atlantic Accord, but also denied that there was a fiscal imbalance problem. In Budget 2007, the Atlantic Accord was honoured without a cap. The accords that were in place the day before the budget in March were in place the day after.



## ORDERS OF THE DAY

### STUDY ON INTERNATIONAL OBLIGATIONS REGARDING CHILDREN'S RIGHTS AND FREEDOMS

#### REPORT OF HUMAN RIGHTS COMMITTEE ADOPTED

The Senate resumed consideration of the tenth report of the Standing Senate Committee on Human Rights entitled: *Children: The Silenced Citizens*, tabled in the Senate on April 25, 2007.—(Honourable Senator Andreychuk)

**The Hon. the Speaker:** On a matter of order, honourable senators, Senator Andreychuk yesterday moved the adoption of the tenth report of the Standing Senate Committee on Human Rights. This is indicated at page 1606 of the *Journals of the Senate* and page 2527 of the *Debates of the Senate*. When Senator Andreychuk completed her remarks, I inadvertently neglected to put the question or to ask for a motion to adjourn. The item was therefore dropped from the Order Paper.

Since Senator Andreychuk clearly moved a motion upon which the Senate has not had the chance to decide, the item is ordered restored to Orders of the Day. If honourable senators are agreeable, I would be happy to put the motion for the adoption of the report now.

Is that agreed, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** It was moved by Senator Andreychuk, seconded by Senator Johnson, that the report be adopted. Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and report adopted.

### EMERGENCY MANAGEMENT BILL

#### THIRD READING

**Hon. Michael A. Meighen** moved the third reading of Bill C-12, to provide for emergency management and to amend and repeal certain Acts.

Motion agreed to and bill read third time and passed.

• (1430)

### CANADA ELECTIONS ACT PUBLIC SERVICE EMPLOYMENT ACT

#### BILL TO AMEND—REPORT OF COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the twelfth report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill C-31, to amend the Canada Elections Act and the Public Service Employment Act, with amendments), presented in the Senate on June 5, 2007.

**Hon. Donald H. Oliver:** Honourable senators, rule 99 of the *Rules of the Senate*, states:

On every report of amendments to a bill made from a committee, the Senator presenting the report shall explain to the Senate the basis for and the effect of each amendment.

I would like to say a couple of words, honourable senators, about the amendments to this bill, and I know that my honourable colleague Senator Nolin would also like to do so.

The title of the bill was amended to reflect an amendment to the Canada Elections Act because two clauses amending the Public Service Employment Act were deleted from the bill. Three of the amendments to this bill have the effect of removing electors' dates of birth from the lists that were provided to the political parties and election candidates at various points in time.

By way of background, honourable senators, when Bill C-31 was first introduced in the other place, it did not provide for dates of birth to be on the list provided to candidates and parties. It provided for dates of birth to be only on the list given to election staff and to poll clerks in order to develop accurate lists and to verify the identity of an elector at the time of voting. It was the House of Commons Standing Committee on Procedure and House Affairs that amended the bill so that birth dates would also be provided to candidates and parties. Thus, the first three amendments made by the Standing Senate Committee on Legal and Constitutional Affairs essentially restored certain clauses of the bill to their original state when the bill was introduced at first reading in the House of Commons.

First, the words "date of birth" were struck from clause 5, on page 2, at line 36 of the English version and at line 37 of the French version, so that the list of electors that are to be sent by November 15 of each year, to the member of the electoral district and, on request, to each registered party that endorsed a candidate in the electoral district in the last election, do not contain that particular piece of personal information. The lists will set out only the surname, given names, civic address, mailing address and the unique identifier assigned by the Chief Electoral Officer.

Your committee received letters and testimony from several witnesses submitting that the distribution of electors' birth dates to political parties and election candidates were a violation of Canadians' reasonable expectation of privacy and was unnecessary to the objective of reducing voter fraud and could lead to a much greater prevalence of identity theft.

Honourable senators, the Privacy Commissioner of Canada who appeared before our committee in particular questioned the relationship between distributing birth dates and protecting the integrity of the electoral process, further pointing out that, unlike Elections Canada and other departments and agencies, members of Parliament, candidates, political parties and electoral volunteers are not subject to the Privacy Act and its provisions that protect personal information.

The Canadian Association of Professional Access and Privacy Administrators also testified before our committee that breaches of privacy, whether deliberate or inadvertent, are very common and that identity theft has serious financial and psychological

consequences. Privacy and election officials from Ontario and Quebec advised our committee that comparable provincial legislation on elections attaches greater restrictions to the use of personal information and has a higher penalty for its misuse.

The second amendment regarding the birth date was made in clause 13, on page 6, at lines 14 and 15 of both the French and the English texts. The reference to "date of birth" was removed so that the preliminary lists of electors, which are distributed to each registered party or eligible party that requests it, contains only the name and address of each elector and the unique identifier assigned by the Chief Electoral Officer.

Third, clause 18, on page 7, at line 35 of the English version and lines 34 and 35 of the French version, was amended by changing the last several words of subsection 107(3) of the Canada Elections Act. Instead of candidates receiving the revised or official list of electors with an indication of each elector's date of birth, these lists will not contain this information. As with the amendments to clauses 5 and 13, this amendment effectively restores the original content of the provisions when first introduced in the other place. However, the amendment to clause 18 goes further in that it also provides for the sex of each elector to be removed from the revised and official list of electors before they are delivered to candidates.

As with an elector's date of birth, the sex of an elector might be required for Elections Canada to verify voter identity, but this personal information is not necessary in order for candidates to campaign on the basis of the revised or official lists. Already under Bill C-31, sex does not form part of the November 15 preliminary lists that are given to candidates and parties.

Next, clause 28 of the bill, on page 13, at lines 12 and 17 of the English version and lines 11 to 16 of the French version, was amended by adding words to the end of the proposed paragraph 162 (I. L.) of the Canada Elections Act, a provision that was added, again, by the House of Commons Standing Committee on Procedure and House Affairs to require each poll clerk to provide to a candidate's representative the identity of every elector who has exercised his or her right to vote.

The objective of indicating who has already voted, typically by giving candidates' representatives a copy of the list of eligible voters with names checked off, something sometimes called a "bingo card," is to let candidates know which supporters may still be called upon to cast their vote. Additional words were added to clause 28 by your committee to indicate that this provision, which requires bingo cards to be provided periodically throughout the day, applies only on regular polling days, not on advance polling days. For advance polling days, a new paragraph, 162 (I. 2) was added to indicate that bingo cards needed only to be distributed once after the close of the advance polling station. As the regular polling day has not yet occurred, there is ample opportunity for candidates to approach supporters who have not yet voted.

Clause 28 was also added to exclude the need for a poll clerk, whether on an advance or regular polling day, to include the identity of electors who registered for the first time that day. As these individuals are not on the list previously given to candidates during the election campaign, indicating their names would serve no purpose in identifying supporters who have not yet

voted. Further, the Chief Electoral Officer told the committee that the names of individuals who registered to vote that day at the poll need to be manually entered by clerks, increasing their work load for no practical purpose.

• (1440)

Finally, the English version of clause 28, on page 13, at lines 12 and 13, was amended to clarify that the bingo cards are to be distributed on regular polling days at intervals of no less than 30 minutes. In other words, every 30 minutes there is an updated bingo card with the names who have not voted, rather than "at least every 30 minutes."

This change to the English wording brings it into conformity with the French "intervalles minimaux de trente minutes," which indicates that bingo cards need to be provided no more frequently than every 30 minutes rather than "at least every 30 minutes."

Clauses 40 and 41, on pages 16 and 17 of the bill, were deleted in their entirety. These would have permitted the Public Service Commission to extend the period of employment of casual workers beyond the current 90-day limit. While there may be legitimate need for election staff to be able to work for longer periods of time in order to prepare for, conduct and report on an election, your committee concluded that clauses 40 and 41 were too wide in scope and that they were not restricted just to Elections Canada, nor did they impose an upper limit on any extension of the number of working days. Moreover, it is already possible for the Public Service Commission, under section 20 of the Public Service Employment Act and with the approval of the Governor-in-Council, to exclude positions, persons or classes from the application of the act.

Although the President of the Public Service Commission, who appeared before us, argued strenuously that the act needed a clear provision to enable her to extend the employment of casual workers, your committee still concluded that clauses 40 and 41 were too broad and could result in a greater number of casual workers in departments or circumstances, which was not justified.

The Professional Institute of the Public Service of Canada testified that an increase in the use of casual workers in the public service means that a greater number of employees do not enjoy the advantage of union membership, do not have job security and do not have the same degree of personal investment in their jobs.

When Bill C-31 was first introduced in the other place, all of the amendments to the Canada Elections Act would have come into force six months after Royal Assent unless the Chief Electoral Officer published a notice to the effect that the necessary preparations had been made and they could come into force earlier.

The House of Commons Standing Committee on Procedure and House Affairs amended clause 42 so that certain amendments could come into force two months after Royal Assent and others would come into force eight months after Royal Assent. The difference depended on the time it would take the Chief Electoral Officer to make the necessary preparations with respect to the particular provisions, although he could still indicate that he was ready earlier.



The provisions for which longer time to prepare would be given are generally those necessitating changes to computer systems, including the addition of a unique identifier, which is the number given by the Chief Electoral Officer, the date of birth and in some cases a sequenced number on lists of electors.

Three changes were made in the coming-into-force provision of Bill C-31 by your committee. First, clause 42, on page 17, at line 8 of the English version, and line 9 of the French version, was amended to indicate that subclause 42(1), which brings certain amendments into force after two months, operates despite section 554(1) of the Canada Elections Act.

Section 554(1) states that amendments to the act do not apply to an election for which the writ is issued within six months after the passing of the amendments, unless the Chief Electoral Officer indicates that he or she is prepared. As subsection 42(1) sets a two-month deadline, it was necessary to indicate that subsection 554(1) does not apply. They were in contradiction.

Second, because the Chief Electoral Officer testified before our committee that a period of eight months was still not sufficient to make computer-related changes and run the necessary tests to prepare for the second category of provisions, subsection 42(2), on page 17, at line 23 of the English version, and line 25 of the French version, was amended to extend the period to 10 months from eight months. The Chief Electoral Officer explained that if an election were held before then, it could be difficult to put these provisions into effect in time without introducing some risk to the integrity of the voting process.

Finally, honourable senators, the two new provisions regarding bingo cards, which indicate to candidates which electors have already voted, subclause 28(i.1) and subclause 28(i.2) were removed from subsection 42(1), subclause 42(2) on page 17 on line 9 of the English version, and line 11 of the French version. This is because, like other provisions dealing with voters' lists, these two provisions will necessitate changes to the computer systems of Elections Canada. The amendment accordingly provides for the provisions on bingo cards to come into force 10 months after Royal Assent rather than two. As with the other provisions, they may come into force earlier if the Chief Electoral Officer publishes a notice stating that the necessary provisions have been made.

Honourable senators, I submit that this explanation complies with Senate rule 99 about advising honourable senators what amendments have been made and the reasons for so doing.

[Translation]

**Hon. Pierre Claude Nolin:** Honourable senators, I would like to thank Senator Oliver for so skilfully listing all our amendments and explaining in detail the reasoning behind them.

I am pleased to take part in this debate at report stage on Bill C-31, which the Standing Senate Committee on Legal and Constitutional Affairs presented to us yesterday.

• (1450)

Honourable senators, you will recall that Bill C-31 was drafted in response to the thirteenth report of the Standing Committee on Rules, Procedures and the Rights of Parliament, which was supported by all the parties represented on the committee.

[ Senator Oliver ]

After this report was released last June, the government pointed to the spirit of non-partisanship that guided its drafting and the committee's unanimous approval of the recommendations, and introduced Bill C-31 in order to implement most of those recommendations.

In addition to proposing operational changes to improve election administration, the bill addressed the committee's concerns about the risk of electoral fraud and the integrity of the electoral process.

I am well aware that Senator Oliver described the amendments ad nauseam and in great detail. Allow me to summarize and group them.

Honourable senators, the Senate committee's report aims to amend Bill C-31 in four ways: first, the committee report proposes to eliminate the requirement that each elector's date of birth be included on the lists of electors given to candidates, members and political parties.

The requirement that the date of birth be included on revised and official lists given to election officials is maintained.

Second, the committee report proposes to limit the requirement that, at 30-minute intervals, the poll clerk provide candidates' representatives with a list of everyone who has voted.

Under the proposed amendment, this requirement will apply only on polling day and will not include electors who registered on that day. On advance polling days, the clerk will not be required to provide a list of everyone who voted until after the polling station has closed.

Third, the committee report proposes to amend the coming into force date of certain provisions. It stresses quite categorically that the rules on voter identification come into force, without exception, two months after Royal Assent. The provisions regarding the national register of electors and the poll clerk providing candidates' representatives with lists, at 30-minute intervals, of electors having exercised their right to vote, come into force 10 months after Royal Assent.

Fourth, the report indicates that the committee rejected the amendments to the Public Service Employment Act that would have enabled the Public Service Commission to make regulations to extend the maximum term of employment of casual workers.

Honourable senators, I am pleased to inform you today that the government supports two of the amendments I was just talking about, namely those on updating the lists, as Senator Oliver was explaining, the bingo card system, and on the coming into force of the various provisions.

What is more, the government will not propose an amendment in this chamber regarding including the voter's date of birth on the list of electors; it will leave it up to the other place to review its position on that matter.

However, as far as the situation with casual employees is concerned, the government is asking me to offer you an alternative, which I will do at the end of my speech.

Honourable senators will recall that some amendments to the Public Service Employment Act were incorporated in Bill C-31 after the House of Commons standing committee and the government approved the recommendation of the Chief Electoral Officer, given the specific requirements of election administration, to implement a process whereby casual employees could be hired for a period exceeding the 90 days per calendar year maximum currently authorized.

This need is quite apparent in the context of a minority government, when two elections can be held in the same calendar year. Under the current system, if this were to happen, the Chief Electoral Officer would not be able to call on the help of employees who had worked on the last election.

Honourable senators, I understand why the committee rejected the proposed amendments to the Public Service Employment Act. Some of its members felt that the power the amendments would give to the Public Service Commission was far too broad, that is, the power to determine under what exceptional circumstances the rules on casual employment would not apply.

After all, the 90-day rule was not brought in until December 2005. The rule prompted the Chief Electoral Officer to recommend a longer period of employment for casual workers recruited by Elections Canada for an election. In his opinion, his office would have difficulty carrying out its mandate under the Canada Elections Act if it were forced to replace competent, experienced employees after 90 days, or if it was not permitted to rehire them. Whatever concerns honourable senators have about extending the employment period for casual workers, I am convinced that none of them would agree to adopt rules that would, in all likelihood, interfere with the work of Elections Canada.

Elections are the cornerstone of our democratic system. It is the responsibility of parliamentarians to implement rules that ensure the efficiency and effectiveness of the process.

That is why I am announcing, honourable senators, that, contrary to what the committee recommended in its report, the government has authorized me to convey its intention to table, once again, a number of amendments to the Public Service Employment Act.

The government's proposed amendments are designed to help Elections Canada carry out its mandate. The government believes, and I agree, that these amendments show its desire to address a number of concerns that led honourable senators on the committee to reject the initial proposal.

Honourable senators, the amendments that the government has asked me to introduce following the committee's report are as follows. First, the government will, in due time, reopen the discussion on the proposed amendments to the Public Service Employment Act in order to enable the Public Service Commission to extend, by means of regulation, the period of employment for casual workers.

That being said, contrary to the initial proposal that the committee rejected, the government would limit the application of this amendment to casual workers hired by the office of the Chief

Electoral Officer for elections held pursuant to the Canada Elections Act or for a referendum held pursuant to the Referendum Act.

Second, we will specify that the maximum duration of the contract for these casual workers, including the initial 90-day period and authorized extensions, cannot exceed 165 working days during one calendar year. Proposed amendments to the Public Service Employment Act will allow Elections Canada to retain the services of competent and experienced employees hired before, during or even after an election campaign, in order to facilitate the administration of a vote or referendum.

In the context of these amendments, the government will also propose that the original title of the bill, which referred to the Public Service Employment Act, be restored.

• (1500)

I would like to close, honourable senators, by reiterating the importance that we must assign to any measure that seeks to eliminate obstacles to the holding of fair and credible elections. It is a complicated process full of challenges, but a process that is absolutely crucial to the proper functioning of democracy.

The Chief Electoral Officer is an independent and non-partisan officer of Parliament. When he sounded the alarm about potential threat to the efficient running of elections, it was our responsibility to act promptly to eliminate this threat.

The amendments to be put forward by the government will address the concerns expressed by the Chief Electoral Officer, in such a way as to not unnecessarily alter the safeguards included in the Public Service Employment Act to protect the rights of workers. Therefore, I urge the honourable senators to support these amendments to the committee's report.

#### MOTION IN AMENDMENT

**Hon. Pierre Claude Nolin:** Honourable senators, I move that the twelfth report of the Senate Committee on Legal and Constitutional Affairs be not now adopted, but that it be amended:

(a) by deleting amendment No. 1;

(b) at amendment No 7, by replacing the text after "*Page 16, clause 40:*" with the following:

"Replace lines 30 to 39 with the following:

**"40. The *Public Service Employment Act* is amended by adding the following after section 50:**

**50.1** Despite subsection 50(2), the maximum period of employment of casual workers appointed in the Office of the Chief Electoral Officer for the purposes of an election under the *Canada Elections Act* or a referendum held under the *Referendum Act* is 165 working days in one calendar year.""; and

(c) by renumbering amendments 2 to 11 as amendments 1 to 10.



I table these amendments in both official languages.

On motion of Senator Milne, debate adjourned.

[English]

## CRIMINAL CODE

### BILL TO AMEND—THIRD READING— DEBATE ADJOURNED

**Hon. Donald H. Oliver** moved third reading of Bill C-277, to amend the Criminal Code (luring a child).—(*Honourable Senator Keon*)

On motion of Senator Tardif, debate adjourned until the next sitting of the Senate.

## KELOWNA ACCORD IMPLEMENTATION BILL

### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Campbell, seconded by the Honourable Senator Hubley, for the second reading of Bill C-292, to implement the Kelowna Accord.—(*Honourable Senator Stratton*)

**Hon. Terry Stratton:** Honourable senators, I rise today to explain my opposition to Bill C-292, the Kelowna Accord Implementation Act. The supporters of this bill call for government to embark on a massive spending program with little regard for accountability and value. I believe it is incumbent upon senators to honour the wishes of Canadians and vote against Bill C-292.

I have no quarrel with the ultimate aim of the right honourable member who first proposed this legislation. Like most Canadians, I too want to see improvement in the distressingly low standard of living experienced by so many Aboriginal people in this country. I acknowledge that the meetings that took place in Kelowna some 15 months ago fostered valuable goodwill among federal, provincial, territorial and Aboriginal leaders.

The agreement at the heart of Bill C-292 is nothing more than a news release full of sweeping commitments to spend a hefty \$5 billion. There is no accord; it does not exist. In essence, while participants of the first ministers' meeting agreed on what they hoped to achieve, no consensus emerged on precisely what to do and how to pay for it. This is clearly unacceptable.

[Translation]

Honourable senators will recognize better than most citizens that, historically, Canada's aboriginal policies have been openly criticized for being inconsistent.

Reports produced by the Auditor General and the Royal Commission on Aboriginal Peoples, to name just two examples, exposed the inevitable consequences of decisions to invest large amounts of money in programs that lack adequate structures for accountability and monitoring.

[ Senator Nolin ]

[English]

This government is determined to take another approach to help design and implement coherent, effective Aboriginal policies. The Prime Minister wisely chose the most qualified candidate to serve as Minister of Indian Affairs and Northern Development and federal interlocutor for Métis and non-status Indians.

The varied career of the honourable member of Calgary North—Centre has enabled him to amass considerable expertise in Aboriginal matters. For a decade he was a commissioner with the Indian Claims Commission. He has also served on the House of Commons Standing Committee on Aboriginal Affairs and Northern Development.

Few people possess credentials more suited to the task at hand, and the minister's actions have given Canadians reason to applaud the wisdom of the Prime Minister. Since taking office, the minister has implemented a comprehensive approach to addressing Aboriginal issues, an approach based on clear accountabilities, targeted investments and strategic partnerships.

• (1510)

This approach is carefully structured to deliver maximum value for taxpayers' dollars. Most important, it proposes a realistic and cohesive way to make sustainable, tangible progress on Aboriginal issues. The government's approach involves strategic investments that enable Aboriginal peoples to take greater control of, and assume greater responsibility for, quality-of-life issues such as education and housing; promoting economic development, job training, skills and entrepreneurship; working to accelerate the resolution of land claims; and finally, laying the groundwork for responsible self-government by moving toward modern and accountable governance structures.

Honourable senators, I am pleased to report that remarkable results have been achieved in each component of this approach, and this progress will be supported and sustained through the measures in Budget 2007.

While Budget 2006 announced \$450 million over two years in priority areas such as education, women, children and families, and water and housing, Budget 2007 confirms that \$300 million of this sum will continue in 2007-08 as ongoing funding.

The recent budget includes a dedicated investment in the development of a housing market in First Nations communities. An additional \$105 million over five years is invested in the Aboriginal Skills and Employment Partnership. As a result of this investment, an additional 9,000 Aboriginal individuals will receive skills training, and an additional 6,500 will secure sustainable skilled jobs.

[Translation]

The government will implement a strict regulatory system based on the reports of the Expert Panel on Safe Drinking Water for First Nations to monitor water quality on reserves. The Aboriginal Justice Strategy will be changed to increase the number of Aboriginals and Aboriginal communities with access to community justice programs.

Honourable senators, these measures will produce real results for Aboriginals. In addition, the government has signed a number of major agreements with Aboriginal groups. For example, the resolution of the Indian residential schools issue has brought closure to long-standing grievances. The final agreements signed by three First Nations in British Columbia will pave the way for improved governance and stimulate economic growth for these communities. The signing of the Nunavut Land Claim Agreement resolves the latest major Inuit land claim in Canada.

Honourable senators, these final agreements and funding agreements are major achievements, and the government is working on more like them. These agreements address the root of the problems Aboriginal peoples are struggling with today. In many cases, these problems arose because of an ineffective legislative framework governing the implementation of programs on reserves.

[English]

Consider, for instance, the issue of the poor educational outcomes produced by on-reserve schools. One of the key factors contributing to the situation is that most on-reserve schools lack crucial links to the communities they serve. Few First Nations schools have organizations such as parent councils, trustees, school boards and ministries of education. With none of these connections in place for First Nations schools, the lines of responsibility are blurred. As a result, the quality of education provided by individual schools, along with the academic outcomes of individual students, both suffer.

Late last year, this government introduced Bill C-34, to change the way on-reserve schools are managed in British Columbia. The First Nations Jurisdiction over Education in British Columbia Act earned near unanimous support of parliamentarians, thanks to its pragmatic approach. The legislation enables First Nations in the province to establish the community links essential to accountability and responsible governance.

A similar approach has been adopted on several other key issues, including the provision of safe drinking water in First Nations communities and on-reserve matrimonial real property, or MRP. This government has taken prompt and decisive action to improve the quality of drinking water available to residents of First Nations communities. In the past year, very significant progress has been made.

Listen to this interesting statistic, honourable senators: The minister has been in place for 15 months. The number of high-risk water systems in First Nations communities has fallen from 193 to 97 in that short time, which is truly remarkable. Eight water treatment plants have been opened in Alberta, Quebec and Ontario. First Nations communities have access to technical support and emergency assistance via a 24-hour hotline. The Circuit Rider Training Program has been extended and is now available to all First Nations communities. As well, the regulatory regime put forward in Budget 2007 will move us toward ensuring safe drinking water for all First Nations communities.

In order to identify an effective legislative solution to the difficult issue of matrimonial real property, Indian and Northern Affairs Canada, the Assembly of First Nations and the Native Women's Association of Canada conducted consultations and

dialogue sessions across the country. These are now complete and Miss Wendy Grant-John, the ministerial representative to this initiative, was able to recommend a tenable solution to on-reserve MRP.

In all of its efforts to make progress on these issues, this government has worked in partnership with national Aboriginal groups. It will continue to work collaboratively with all stakeholders to improve the quality of life of Aboriginal people in Canada.

Honourable senators, at this point, it is necessary to talk bluntly about what we have before us. This private member's bill seeks to force the Government of Canada to implement something called the Kelowna accord. I find the bill to be curious on several levels. One, it does not exist; there is nothing there, no signed or written agreement whatsoever.

First, as all honourable senators are aware, a private member's bill cannot commit the government to the spending of new money. If it did, it would be out of order. The Speaker of the House of Commons has ruled that this bill is in order and, therefore, it cannot lead to the spending of money for the betterment of the Aboriginal people of Canada. Thus, I am curious as to why the opposition in the other place seeks swift passage of a bill on the grounds that it will lead to the reduction of some of the appalling conditions faced by our Aboriginal population.

• (1520)

I also find it curious that this bill refers to an accord. When we think of accords, many spring to mind. All of them involve signed agreements, not a press release and a press conference, on difficult issues that represent a consensus among all interested parties and point to a clear path forward. Does that image apply to the Kelowna Accord? I would like to present to honourable senators the comments of the Honourable Jim Prentice when he spoke to this issue in the House of Commons on June 2, 2006, and I quote:

I was in Kelowna that fall and the dialogue, to be sure, was useful and inspiring in some ways, but the results at the end were unclear. The conference did not conclude with a signed document by the participants entitled, "The Kelowna Accord." I talked to many of the premiers at the close of the conference and to all the aboriginal leaders who were present at the table. I asked them about the page that was tabled at the close of the meeting by the prime minister. There was no consensus with respect to those figures. There was no commonality as to how money would be spent, how it would be distributed among the provinces and territories or how it would be divided among the Aboriginal organizations that were present. It did not happen. I was there. I did the due diligence to ensure that those were the facts at the time.

What we have before us, honourable senators, is a bill that cannot commit any resources to improving the lives of our Aboriginal peoples yet which claims to do just that. It is a bill that would enact the plan on which there was no consensus, on which there are no concrete details on matters of federal-provincial cooperation and which has no clear accountability for how the money that it calls for will be used to make life better for the people who so desperately need our help.



Honourable senators, I submit that this bill is yet another example of how successive governments of all political stripes have failed the Aboriginal population of this country.

[Translation]

Honourable senators, I have visited some reserves. I saw the deplorable conditions of those reserves and I know this has been a problem for a number of years. Is it not time that we come up with something concrete, instead of continuing with these vague promises and empty rhetoric?

This is all we have been offering to Aboriginal citizens for too many years now. We need to come up with a clear action plan that identifies the main obstacles to improving the lives of Aboriginal people, both on and off reserves, an action plan that proposes concrete measures to overcome those obstacles.

As I said, the government understands that past failures cannot be used as a plan for the future. This is why the government has pursued a series of measures to identify the key problems that must be resolved, both on and off reserves.

[English]

One specific example is Bill S-6, which this chamber has just sent to the other place with impressive speed, thanks to Senator St. Germain and the Standing Senate Committee on Aboriginal Peoples. Bill S-6 identifies a clear and distinct problem: a lack of access on the part of First Nations in Quebec to the benefits of the First Nations Lands Management Act. This will allow First Nations in Quebec to develop land codes, regulate zoning and implement environmental laws and policies as their counterparts in all other provinces have been doing for the past several years to great effect.

Bill S-6 is a clear example of the new approach to dealing with Aboriginal issues — a problem that was identified and then the government moved swiftly to resolve it through the necessary legislation. There was a consensus among all interested parties that this bill was required for the fair and equitable treatment of Quebec First Nations. It is to the credit of the Senate that we were able to deal with this bill as expeditiously as we did. That is what happens when our problems are identified and a concrete resolution is proposed, and is the kind of action that our Aboriginal population deserves from all of us in Parliament.

[Translation]

The House of Commons is currently studying a large number of bills addressing the particular challenges and issues facing Aboriginal peoples in Canada. I hope all honourable senators will encourage their colleagues in the other place to deal with this legislation as quickly as we dealt with Bill S-6 here in the Senate.

[English]

One example of such a bill is C-51, the Nunavut Inuit Land Claims Agreement, and a second example is C-44, a first step to ensuring that all Canadians have equal access to human rights protections and to empowering First Nations individuals with the ability to seek recourse. The proposed legislation is a tangible example of this government's commitment to enhancing the

quality of life of Aboriginal people, and it deserves the support of everyone who wishes to see improvements in the lives of our Aboriginal population.

As I have said, the long history of failed promises and empty rhetoric cannot be all that we have to offer. We must do a better job, which means clear plans and concrete actions to fix the immense problems faced on and off reserves. This government is showing the way forward but this bill before us is a relic of the past and an example of a flawed strategy. I urge honourable senators to oppose Bill C-292 and support the government's initiatives for improving the health, living conditions and rights of our Aboriginal citizens.

With leave of the Senate, I would table an Indian and Northern Affairs Canada progress chart for 2006 and 2007 with respect to native land claims.

**The Hon. the Speaker *pro tempore*:** Is leave granted, honourable senators?

**Some Hon. Senators:** Agreed.

**Hon. Gerry St. Germain:** Honourable senators, I have a question for Senator Stratton. Many of us in this place have worked on the Aboriginal file. We have made great progress in the last number of months working with a non-partisan approach. I want to thank everyone who allowed Bill S-6 to proceed, at the behest of Senator Peterson, Senator Campbell, Senator Lovelace Nicholas and others.

• (1530)

My question is with regard to the alleged accord. Did the honourable senator say there is no documentation as to the actual discussions that did take place? I was there in Kelowna on the final day. Is there no document on record within the government's purview?

**Senator Stratton:** That is correct. I can reiterate what Minister Prentice spoke of on June 2, 2006. I quote again:

I was in Kelowna that fall and the dialogue, to be sure, was useful and inspiring in some ways, but the results at the end were unclear. The conference did not conclude with a signed document by the participants entitled "The Kelowna Accord".

In essence, it does not exist; it never did.

**The Hon. the Speaker *pro tempore*:** Are honourable senators ready for the question? It is moved by the Honourable Senator Campbell, seconded by the Honourable Senator Hubley, that this bill be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time, on division.

REFERRED TO COMMITTEE

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Campbell, bill referred to the Standing Senate Committee on Aboriginal Peoples, on division.

### QUESTION OF PRIVILEGE

#### MOTION TO REFER TO STANDING COMMITTEE ON RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Tkachuk, seconded by the Honourable Senator Angus:

That all matters relating to this question of privilege, including the issues raised by the timing and process of the May 15, 2007 meeting of the Standing Senate Committee on Energy, the Environment and Natural Resources and their effect on the rights and privileges of Senators, be referred to the Standing Committee on Rules, Procedures and the Rights of Parliament for investigation and report; and

That the Committee consider both the written and oral record of the proceedings.—(*Honourable Senator Tardif*)

**Hon. Consiglio Di Nino:** Honourable senators, I rise today to speak to Senator Tkachuk's motion, seconded by Senator Angus.

Honourable senators, I wish to state at the outset that I am speaking today primarily out of respect for this institution. There has been a certain decline in our standards of behaviour lately, culminating in the events of May 15. I believe the time has come for us to set aside partisan preferences and political sabre-rattling and work together to grapple with how we ought to operate instead of how we are operating now.

My colleague from across aisle, Senator Carstairs, who has a great deal of experience with parliamentary tradition, said on May 16 that — and I quote:

... questions of privilege are the most serious matter that we should ever deal with in the Senate of Canada."

I agree.

During that same debate, Senator Cools, who is also very well versed in the history of function of our Westminster parliamentary system, stated — and I quote:

There is no matter more important than a question of privilege or the question of any individual senator feeling that his or her privileges or the privileges of the institution as a whole have been breached. As a matter of fact, these privileges are supposed to be jealously held.

Again I agree, especially with her statement "these privileges are supposed to be jealously held."

Why are the questions of privilege the most serious matter we deal with? Why must we jealously hold the privileges that come with this chamber in which we have the honour to serve? The very

simple and, possibly, most frank answer is that they deal with our ability to carry out our constitutional role.

At the risk of sounding trite, rules, manners and etiquette are the grease not only on which our society runs, but also the grease on which our Parliament runs. Without such rules, we, in this chamber, would quickly fall into anarchistic disorder.

As Griffith and Ryle state:

Parliamentary privilege, even though seldom mentioned in debates, underpins the status and authority of all Members of Parliament. Without this protection, individual Members would be severely handicapped in performing their parliamentary functions and the authority of the House itself, in confronting the Executive and as a forum for expressing the anxieties of the citizen, would be correspondingly diminished.

There is an additional nuance to parliamentary privilege that is relevant to this particular motion. C.R. Munro, in *Studies in Constitutional Law*, states that — and I quote:

Parliamentary privilege exists rather to protect the Houses themselves collectively and their members when acting for the benefit of their House, against interference, attack or obstruction.

Parliamentary privilege not only allows us to do our jobs, it protects us in the process against interference, attack or obstruction.

While the Conservative members in this chamber make up the government, we are in an absolute minority position. But for the rules that allow the smooth and respectful operation of the Upper House, we could be bulldozed by the majority of the members — that is, we could be subject to undue interference, attack or obstruction.

Generally speaking, that does not happen. Historically, we operate in an atmosphere of collegiality and respect. At least, that has been our tradition. I believe we have rightfully prided ourselves in our ability to lay aside partisan rhetoric to do our jobs faithfully and to be an effective body of sober second thought.

I have no doubt that this is in part due to the well-understood underpinnings of this chamber that serve to protect us. I believe we are all aware that holding privilege — and, for that matter, Parliament — in contempt would set precedents that could lead to great disruption down the road.

• (1540)

I want to reflect for the moment on the definition of parliamentary privilege, in particular, the one found in none other than Erskine May's *Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, first published in 1844, which states:

Parliamentary privilege is the sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament, and by Members of each House individually, without which they could not discharge



their functions, and which exceed those possessed by other bodies or individuals. Thus privilege, though part of the law of the land, is to a certain extent an exemption from the general law.

May further discusses the importance of privilege to the operation of Parliament, saying:

Certain rights and immunities such as freedom from arrest or freedom of speech belong primarily to individual Members of each House and exist because the House cannot perform its functions without unimpeded use of the services of its Members. Other such rights and immunities such as the power to punish for contempt and the power to regulate its own constitution belong primarily to each House as a collective body, for the protection of its Members and the vindication of its own authority and dignity. Fundamentally, however, it is only as a means to the effective discharge of the collective functions of the House that the individual privileges are enjoyed by Members.

Thus spake Erskine May.

Essentially, privilege allows us to discharge our collective function effectively; that is, to do our jobs.

In the particular motion before us, we are dealing with a case of breach of privilege amounting to contempt of Parliament. I quote May once again:

Generally speaking, any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly to produce such results may be treated as contempt even though there is no precedent of the offence.

The specific motion before us deals with an action that obstructed a Member of Parliament, a senator, from discharging his duty. When our colleague, Senator Tkachuk, spoke on this matter on May 17, he stated:

My core issue is that the conduct of Senator Banks has obstructed me from the ability to discharge my duties in committee. On Tuesday, May 15, after the bells rang in the Senate and the Speaker called for quorum, the upper chamber was adjourned. I and my colleagues, Senator Cochrane and Senator Angus, waited for the Speaker to leave, as is the custom in this place, and then made our way to the East Block, as members of the Energy Committee, to participate in clause-by-clause consideration of Bill C-288.

I left the chamber following the Speaker and went directly to the committee room in room 257 of the East Block. As I entered the meeting room, Senator Banks, to my surprise, did not call the meeting to order but adjourned it. In the absence of any Conservative members of the committee, Senator Banks had conducted clause-by-clause consideration on the bill and was going to report it.

As you are aware, honourable senators, on May 29, our Speaker ruled that there had been a *prima facie* case of privilege. Let me quote what he said.

The putative question of privilege under consideration meets the conditions to be accorded priority under the special processes for a *prima facie* question of privilege. Senator Tkachuk has outlined how he felt that he was impaired in fulfilling his parliamentary role, given the limited time available to go from the Senate Chamber to the committee room. Senators will now have the opportunity to debate whether this matter should be pursued further.

I reiterate that this decision on the *prima facie* aspect of the question of privilege is not a definitive resolution of the issue. This ruling does not establish that Senator Tkachuk's privileges were breached, nor does it conclude that any action must be taken on the matter. That is a decision for the Senate.

Under the rules by which we operate, the senator who raised the matter is given the opportunity to propose a remedy by immediately moving a motion either to refer the matter to the Rules Committee or to call upon the Senate to take action. In this particular case, Senator Tkachuk has moved a motion that this matter be referred to the Standing Committee on Rules, Procedures, and the Rights of Parliament.

Should this chamber decide to send the matter to the Rules Committee, the role of that committee would be to investigate the matter and to make recommendations. The final decision as to what, if anything, should be done rests with this chamber.

I submit that the issue of whether Senator Tkachuk's privileges were violated is worthy of serious consideration. We cannot brush it aside. This issue is critical to the manner in which we operate.

Others have suggested that we may need to examine how to avoid such a breach of privilege, or what Senator Fraser referred to as a "lack of courtesy" when she spoke on May 29. Let us be honest here. Call me "old school," but under the heading "lack of courtesy," I place such behaviours as not giving up a seat on a bus to someone who needs it, not holding open a door for someone or not snickering at the misfortunes of others.

Interfering with the work of Parliamentarians in dealing with legislation through a narrow, legalistic interpretation of our rules is not "lack of courtesy." Where the rules operate in a manner which breaches privilege, they cannot stand.

I would like to turn for a moment to a different matter raised by Senator Angus, one that is extremely important but which has received scant consideration in our debate.

As he told this chamber on May 29:

My policy advisor called me in Montreal terribly distraught when she heard her name being bandied about in the Senate when there was a reading into the record of various exchanges between the clerk of the committee in question and various assistants. I do not think that it is necessary in this place and I consider that as well to be an abuse of the process and all part of this mess.

This chamber is not the place to discuss employees of the Senate, honourable senators, especially by name, unless it is absolutely necessary. I am deeply concerned that, by so doing, we are contributing to an atmosphere of fear with staffers being caught in the middle as unseemly rhetoric flies. This practice is inappropriate and beneath the dignity of this institution and its centuries-rich heritage.

While I am aware that this is not the time to debate the specifics of the events that took place on the evening of May 15, I will state that convening a meeting at a time or place when it is apparent that doing so will interfere in the ability of senators to discharge their duties in the Senate is simply wrong. It is an affront to the rights of senators.

In support of this statement, I refer to Marleau and Montpetit and the discussion in that book of the strike by the Public Service Alliance of Canada that took place in February 1999. Honourable senators may recall that picket lines were set up at strategic points of entry to Parliament Hill and at entrances to buildings used by parliamentarians. Saskatoon-Humboldt MP at that time, Jim Pankiw, in his submission on this matter, stated that the strikers had used physical violence and intimidation to stop him from gaining access to his office.

According to Marleau and Montpetit:

On this matter, Speaker Parent ruled immediately that there was a prima facie case of privilege. Mr. Pankiw moved that the matter of his molestation be referred to the Standing Committee on Procedures and House Affairs, and it was agreed to without debate. Other questions of privilege, raised by John Reynolds (West Vancouver-Sunshine Coast), Roy Bailey (Souris-Moose Mountain) and Gary Breitkreuz (Yorkton-Melville), focused on the difficulties Members had had in gaining access to their offices. The picket lines, it was claimed, impeded Members from performing their duties and meeting their obligations as Members of Parliament in a timely fashion. The next day, noting that the Speaker is the guardian of the rights of Members, Speaker Parent stated in his ruling that he had been persuaded by the interventions made by the three Members who had raised the matter and had decided their concerns were sufficiently serious for the Chair to act. Therefore, he found that the incident of the previous day of impeding access to the parliamentary precinct constituted a prima facie case of contempt of the house and invited Mr. Reynolds to move the appropriate motion. The Member moved that the matter be referred to the Standing Committee on Procedure and House Affairs, and the motion was adopted without debate.

• (1550)

Honourable senators, there are differences between that particular case and this one. In the previous one, parliamentarians were prevented from doing their work by people from outside of the Hill, who physically obstructed them.

**The Hon. the Speaker:** I regret to advise the honourable senator that his 15 minutes have expired.

**Senator Di Nino:** May I have a further two minutes to conclude?

**Hon. Anne C. Cools:** I would like to ask a question on a point of order, Your Honour.

**Some Hon. Senators:** Oh, oh.

**The Hon. the Speaker:** Order. I must first deal with the matter raised by Senator Di Nino, who has asked for unanimous consent for another two minutes, I heard. Is unanimous consent on that request granted?

**Hon. Senators:** Agreed.

#### POINT OF ORDER

**The Hon. the Speaker:** Do you have a point of order, Senator Cools?

**Hon. Anne C. Cools:** Yes, I wanted to raise a very quick point. Perhaps I can raise it in a more fulsome way at some point in this debate.

It is no secret that I have said earlier that this is not a question of privilege here. There is no breach of privilege here, no contempt of Parliament. However, the particular point I want to raise, Your Honour — and perhaps it might resolve itself — is that time and again, I hear the words thrown around this place that Senator Banks' conduct obstructed Senator Tkachuk. This is not funny, Your Honour. This is a very serious matter because "obstruct" implies physical prevention.

**Senator Tkachuk:** Please.

**Senator Cools:** Not "please." Go and look up what it means to obstruct a police officer. I have the definition from the *Oxford Dictionary* — "obstruct" means to block, close up, fill a passage with obstacles or impediments, to interrupt or render difficult for passage.

Honourable senators, in my hearing of the facts as they were described originally, I want a ruling on whether or not it is in order for the proceedings of this place to say again and again that Senator Banks — named and identified personally, not the committee — personally obstructed Senator Tkachuk.

By Senator Tkachuk's own description of the events, when he arrived at the committee meeting, Senator Banks was sitting in the chair and the meeting was in progress. Therefore, I do not know how it is possible that Senator Banks could have possibly obstructed him, unless he means that perhaps Senator Banks threw a series of, I do not know, trees or something in his path. I want to know if it is in order for such serious accusations to be made in such a capricious way.

**Some Hon. Senators:** Oh, oh.

**Senator Cools:** Your Honour, if these accusations — I can speak — if they were so serious, how come the motion is not addressing the question? What is going on here, Your Honour, is that one set of things is being said in the speeches and a different resolution is being sought in the motion.

The motion also has some funny little surreptitious innuendos and insinuations. For example, it begins that all matters relating, et cetera, be referred for "investigation and report." The words



are usually “for consideration and report.” There is no investigation going on here — all these are very penal-sounding words. What is going on here is a massive case of smearing.

I would be happy to withdraw the point of order. However, I am saying to Your Honour, if obstruction occurred, then obstruction has to be described and the evidence for obstruction has to be put before the house.

The individual senators on the Conservative side cannot keep repeating these accusations time after time without putting some evidence that such obstruction did occur. It is unfair, mean, maligning and it is even calumny; it is not nice, Your Honour.

I do not want to cause Your Honour any difficulty, and perhaps I have moved on to the substance of the issue. If it is causing some difficulty, as I said before, I would be happy to withdraw.

However, I do not think that any good is done to anyone, or to the system as a whole, to keep repeating these same words over and over again. I do not think that it is in order, under the rubric of raising a question of privilege, to repeatedly smear, malign and libel another senator. I do not think it is right and I would not mind if you would rule on that.

In the heat of the moment, things happen, but I do not think it is necessary to be mean-spirited.

**The Hon. the Speaker:** Do any other honourable senators wish to make a comment on this point of order? I will take the matter under advisement.

We will now proceed to the extension of Senator Di Nino’s speech.

**Senator Di Nino:** I have about a moment left. In this case, it was senators who prevented other senators from doing their work by not allowing them sufficient time to reach a committee room after attending to their business in the chamber.

Otherwise, I see little real difference between picket lines and political shenanigans when both are set up as barriers, particularly where it was done with what I call malicious intent to prevent senators from attending to the business of the Senate.

Honourable senators, I urge the members of this chamber to jealously guard our privileges, as we are required to do, and to send this matter to the Rules Committee to investigate the circumstances surrounding this odious incident, and to make recommendations as to how to prevent it in the future or how it might best be dealt with should it recur.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** I move the adjournment of the debate.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**An Hon. Senator:** No.

On motion of Senator Tardif, debate adjourned, on division.

[ Senator Cools ]

## THE SENATE

### MOTION TO URGE CONTINUED DIALOGUE BETWEEN PEOPLE’S REPUBLIC OF CHINA AND THE DALAI LAMA—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Andreychuk:

That the Senate urge the Government of the People’s Republic of China and the Dalai Lama, notwithstanding their differences on Tibet’s historical relationship with China, to continue their dialogue in a forward-looking manner that will lead to pragmatic solutions that respect the Chinese constitutional framework, the territorial integrity of China and fulfill the aspirations of the Tibetan people for a unified and genuinely autonomous Tibet.—(*Honourable Senator Cools*)

**Hon. Anne C. Cools:** At this point, calling order after order is somewhat strange. Maybe we should just suspend because a person has to decide, should they rise to speak for five seconds or should they stand.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Senator Carstairs had wanted to speak on this yesterday and she has asked me to adjourn this in her name.

**Senator Cools:** I told Senator Carstairs I would yield the floor if she wanted to speak.

On motion of Senator Tardif, for Senator Carstairs, debate adjourned.

## BUSINESS OF THE SENATE

**The Hon. the Speaker:** Honourable senators, it being 4 p.m., and pursuant to an order adopted by the Senate on April 6, 2006, I must interrupt the proceeding for the purpose of suspending the sitting until 5:30 p.m., at which time the Senate will proceed in the taking of the deferred vote on the sub-amendment to Bill C-288.

The sitting was suspended.

• (1730)

The sitting was resumed.

## KYOTO PROTOCOL IMPLEMENTATION BILL

### THIRD READING—MOTIONS IN AMENDMENT AND SUBAMENDMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Trenholme Counsell, for the third reading of Bill C-288, to ensure Canada meets its global climate change obligations under the Kyoto Protocol;

And on the motion in amendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Angus, that Bill C-288 be not now read a third time but that it be amended:

(a) in clause 3, on page 3, by replacing line 19 with the following:

“Canada makes all reasonable efforts to take effective and timely action to meet”;

(b) in clause 5,

(i) on page 4,

(A) by replacing line 2 with the following:

“to ensure that Canada makes all reasonable efforts to meet its obligations”,

(B) by replacing line 6 with the following:

“ance standards for vehicle emissions that meet or exceed international best practices for any prescribed class of motor vehicle for any year,”, and

(C) by adding after line 13 the following:

“(iii.2) the recognition of early action to reduce greenhouse gas emissions, and”,

(ii) on page 5,

(A) by replacing line 9 with the following:

“(a) within 10 days after the expiry of each”,

(B) by replacing line 23 with the following:

“first 15 days on which that House is sitting”, and

(C) by replacing lines 26 and 27 with the following:

“each House of Parliament is deemed to be referred to the standing committee of the Senate and the House of Commons that”;

(c) in clause 6, on page 6, by adding after line 29 the following:

“(3) For the purposes of this Act, the Governor-in-Council may make regulations restricting emissions by “large industrial emitters”, persons that the Governor-in-Council considers are particularly responsible for a large portion of Canada’s greenhouse gas emissions, namely,

(a) persons that are part of the electricity generation sector, including persons that use fossil fuels to produce electricity;

(b) persons that are part of the upstream oil and gas sector, including persons that produce and transport fossil fuels but excluding petroleum refiners and distributors of natural gas to end users; and

(c) persons that are part of energy-intensive industries, including persons that use energy derived from fossil fuels, petroleum refiners and distributors of natural gas to end users.”;

(d) in clause 7,

(i) on page 6,

(A) by replacing line 32 with the following:

“that Canada makes all reasonable attempts to meet its obligations under”, and

(B) by replacing line 38 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 7, by replacing line 4 with the following:

“(3) In ensuring that Canada makes all reasonable attempts to meet its”;

(e) in clause 9,

(i) on page 7, by replacing line 33 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 8,

(A) by replacing line 3 with the following:

“Minister considers appropriate within 30 days”, and

(B) by replacing line 7 with the following:

“(1) or on any of the first fifteen days on which”;

(f) in clause 10,

(i) on page 8,

(A) by replacing line 9 with the following:

“10. (1) Within 180 days after the Minister”,

(B) by replacing line 11 with the following:

“tion 5(3), or within 90 days after the Minister”, and

(C) by replacing line 38 with the following:

“(a) within 15 days after receiving the”, and

(ii) on page 9,

(A) by replacing line 6 with the following:

“Houses on any of the first 15 days on”, and



(B) by replacing line 9 with the following

“(b) within 30 days after receiving the advice,”;

(g) in clause 10.1, on page 9,

(i) by replacing line 17 with the following:

“and Sustainable Development may prepare a”,

(ii) by replacing line 32 with the following:

“report to the Speakers of the Senate and the House of Commons”, and

(iii) by replacing lines 34 and 35 with the following:

“Speakers shall table the report in their respective Houses on any of the first 15 days on which that House”.

On the subamendment of the Honourable Senator Cochrane, seconded by the Honourable Senator Angus, that the motion in amendment be amended by deleting paragraph (c) and relettering paragraphs (d) to (g) as paragraphs (c) to (f).

Motion in subamendment negated on the following division:

#### YEAS THE HONOURABLE SENATORS

Andreychuk  
Angus  
Cochrane  
Comeau

LeBreton  
Meighen  
Nolin  
Oliver

Di Nino  
Eyton  
Fortier  
Gustafson  
Johnson

Prud'homme  
Segal  
St. Germain  
Stratton  
Tkachuk—18

#### NAYS THE HONOURABLE SENATORS

Bacon  
Banks  
Bryden  
Callbeck  
Campbell  
Cools  
Corbin  
Cordy  
Cowan  
Dallaire  
Dawson  
De Bané  
Downe  
Dyck  
Furey  
Gill  
Goldstein  
Grafstein

Harb  
Hervieux-Payette  
Lovelace Nicholas  
Mahovlich  
Merchant  
Mitchell  
Moore  
Munson  
Murray  
Pépin  
Peterson  
Phalen  
Robichaud  
Smith  
Stollery  
Tardif  
Trenholme Counsell  
Watt—36

#### ABSTENTIONS THE HONOURABLE SENATORS

Nil

The Senate adjourned until Thursday, June 7, 2007, at 1:30 p.m.

## CONTENTS

Wednesday, June 6, 2007

	PAGE		PAGE
<b>SENATORS' STATEMENTS</b>		<b>Status of Women</b>	
<b>Sixty-third Anniversary of D-Day</b>		Governor General's Awards in Commemoration of the Persons Case.	
Hon. Marjory LeBreton . . . . .	2531	Hon. Lucie Pépin . . . . .	2539
		Hon. Marjory LeBreton . . . . .	2540
<b>Les Grands Ballets Canadiens de Montréal</b>		<b>National Defence</b>	
Retirement of Prima Ballerina Anik Bissonnette.		Support for Military Families—Response to Crisis Situations.	
Hon. Céline Hervieux-Payette . . . . .	2531	Hon. Roméo Antonius Dallaire . . . . .	2540
		Hon. Marjory LeBreton . . . . .	2540
<b>Aboriginal Land Claims Process</b>		<b>Veterans Affairs</b>	
Hon. Aurélien Gill . . . . .	2531	Vimy Ridge Memorial—Selection of On-site Director.	
<b>Canadian Summit of Francophone and Acadian Communities</b>		Hon. Roméo Antonius Dallaire . . . . .	2541
Hon. Claudette Tardif . . . . .	2532	Hon. Marjory LeBreton . . . . .	2541
<b>The Honourable David P. Smith, P.C.</b>		<b>Finance</b>	
Congratulations on Receiving Queen's University H.R.S. Stuart Ryan Law Alumni Award.		Atlantic Accord—Offshore Oil and Gas Revenues.	
Hon. Jim Munson . . . . .	2532	Hon. Jane Cordy . . . . .	2541
		Hon. Marjory LeBreton . . . . .	2541
<b>Sixty-third Anniversary of D-Day</b>		<hr/>	
Hon. Michael A. Meighen. . . . .	2532	<b>ORDERS OF THE DAY</b>	
Hon. Roméo Antonius Dallaire. . . . .	2533	<b>Study on International Obligations Regarding Children's Rights and Freedoms</b>	
<hr/>		Report of Human Rights Committee Adopted . . . . .	
<b>ROUTINE PROCEEDINGS</b>		2542	
<b>Rules, Procedures and the Rights of Parliament</b>		<b>Emergency Management Bill (Bill C-12)</b>	
Sixth Report of Committee Presented.		Third Reading.	
Hon. Wilbert J. Keon. . . . .	2533	Hon. Michael A. Meighen. . . . .	2542
<b>Study on User Fee Proposal for International Youth Program</b>		<b>Canada Elections Act</b>	
Report of Foreign Affairs and International Trade Committee Presented.		<b>Public Service Employment Act (Bill C-31)</b>	
Hon. Consiglio Di Nino . . . . .	2536	Bill to Amend—Report of Committee—Debate Adjourned.	
		Hon. Donald H. Oliver. . . . .	2542
<b>Income Tax Act (Bill C-294)</b>		Hon. Pierre Claude Nolin . . . . .	2544
Bill to Amend—Report of Committee.		Motion in Amendment.	
Hon. Nancy Ruth . . . . .	2537	Hon. Pierre Claude Nolin . . . . .	2545
<b>The Estimates, 2007-08</b>		<b>Criminal Code (Bill C-277)</b>	
Second Interim Report of National Finance Committee Presented.		Bill to Amend—Third Reading—Debate Adjourned.	
Hon. Nancy Ruth . . . . .	2537	Hon. Donald H. Oliver. . . . .	
<b>The Senate</b>		2546	
Motion to Urge Continued Dialogue Between People's Republic of China and the Dalai Lama— Notice of Motion for Time Allocation.		<b>Kelowna Accord Implementation Bill (Bill C-292)</b>	
Hon. Consiglio Di Nino . . . . .	2537	Second Reading.	
<hr/>		Hon. Terry Stratton . . . . .	
<b>QUESTION PERIOD</b>		2546	
<b>The Senate</b>		Hon. Gerry St. Germain . . . . .	
Call for Passage of Bills C-288, C-292 and C-293.		2548	
Hon. Céline Hervieux-Payette . . . . .	2537	Referred to Committee . . . . .	
Hon. Marjory LeBreton . . . . .	2538	2548	
<b>Heritage</b>		<b>Question of Privilege</b>	
Support for the Arts—Funding of Summer Festivals.		Motion to Refer to Standing Committee on Rules, Procedures and the Rights of Parliament—Debate Continued.	
Hon. Jean Lapointe . . . . .	2538	Hon. Consiglio Di Nino . . . . .	
Hon. Marjory LeBreton . . . . .	2539	Hon. Anne C. Cools. . . . .	
		Point of Order.	
		Hon. Anne C. Cools . . . . .	
		2551	
		Hon. Claudette Tardif . . . . .	
		2552	
		<b>The Senate</b>	
		Motion to Urge Continued Dialogue Between People's Republic of China and the Dalai Lama—Debate Continued.	
		Hon. Anne C. Cools. . . . .	
		2552	
		Hon. Claudette Tardif . . . . .	
		2552	
		<b>Business of the Senate</b> . . . . .	
		2552	
		<b>Kyoto Protocol Implementation Bill (Bill C-288)</b>	
		Third Reading—Motions in Amendment and Sub-amendment— Debate Continued. . . . .	
		2552	





*If undelivered, return COVER ONLY to:*  
Public Works and Government Services Canada  
Publishing and Depository Services  
Ottawa, Ontario K1A 0S5



CANADA

# Debates of the Senate

---

1st SESSION

•

39th PARLIAMENT

•

VOLUME 143

•

NUMBER 105

---

OFFICIAL REPORT  
(HANSARD)

Thursday, June 7, 2007

THE HONOURABLE NOËL A. KINSELLA  
SPEAKER





## CONTENTS

(Daily index of proceedings appears at back of this issue).

---

*Debates and Publications:* Chambers Building, Room 943, Tel. 996-0193

Published by the Senate  
Available from PWGSC – Publishing and Depository Services, Ottawa, Ontario K1A 0S5.  
Also available on the Internet: <http://www.parl.gc.ca>

## THE SENATE

Thursday, June 7, 2007

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

### SENATORS' STATEMENTS

#### CANADIAN CANCER SOCIETY'S RELAY FOR LIFE

**Hon. Catherine S. Callbeck:** Honourable senators, in communities across the country this month, Canadians are coming together to take part in the Canadian Cancer Society's Relay For Life. This relay is one of the society's biggest events. Teams of eight to 15 people take turns running, walking or strolling overnight for 12 hours around a non-competitive relay course to raise money for cancer research, for information services and programs, and for advocacy on public policies that prevent cancer. These inspired people represent families, friends, communities, businesses and corporations: people who share the hope that cancer can be beaten.

Perhaps the most moving event during the relay is the Survivors' Victory Lap. The first lap of the evening is walked by cancer survivors. Some have beaten back the cancer that struck them, while others are still fighting, but they are all joined together by their courage to face such a terrible disease. They serve as a symbol of hope to people living with cancer and their families.

Last year, Prince Edward Island relays saw more than 2,700 Islanders participating, and more than 500 survivors taking part in the victory laps.

• (1335)

[English]

Islanders raised \$400,000 for the Canadian Cancer Society at this event. All told, more than \$38 million was raised across the country in 2006.

For those unable to participate in the relay, Canadians can buy luminaries, candles in fireproof bags that are lit at sunset and burn throughout the night. Luminaries bear the names of survivors and of people whose lives have been cut short by cancer. They pay tribute to loved ones lost and celebrate loved ones who have won the battle. They line the relay course to light the way for participants.

Honourable senators, nearly 160,000 new cases of cancer will be diagnosed this year, and more than 72,000 Canadians will lose their lives. Cancer is indiscriminate: It strikes people from all walks of life, and affects families, friends and loved ones. Anyone and everyone can be touched by cancer.

I urge you to take part in the Relay for Life events — be a participant, be a supporter, volunteer your time or buy a luminary to honour someone you know. If we all work together, we can make cancer history.

**Hon. Senators:** Hear, hear!

### PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

**The Hon. the Speaker:** Honourable senators, before proceeding to tabling of documents, I am pleased to introduce one House of Commons page who is participating in the page exchange this week. It is Mark Friedman of Toronto, Ontario, who is pursuing his studies at the Faculty of Social Sciences at the University of Ottawa, where he is majoring in history and political science.

[Translation]

### ROUTINE PROCEEDINGS

#### SENATE ETHICS OFFICER

2006-07 ANNUAL REPORT TABLED

**The Hon. the Speaker:** Honourable senators, I have the honour to table, in both official languages, the 2006-07 annual report of the Senate Ethics Officer, pursuant to section 20.7(1) of the Parliament of Canada Act.

[English]

#### AUDITOR GENERAL

2006-07 ANNUAL REPORT ON PRIVACY ACT TABLED

**The Hon. the Speaker:** Honourable senators, I have the honour to table, in both official languages, the Auditor General's 2006-2007 annual report on the Privacy Act, pursuant to section 72 of the Privacy Act.

### NATIONAL CAPITAL ACT

BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Tommy Banks,** Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Thursday, June 7, 2007

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

#### EIGHTH REPORT

Your Committee, to which was referred Bill S-210, An Act to amend the National Capital Act (establishment and protection of Gatineau Park), has, in obedience to the Order



of Reference of Wednesday, December 13, 2006, examined the said Bill and now reports the same with the following amendments:

1. Page 2, clause 4:

(a) Replace line 32 with the following:

“10.1 (1) There is hereby established a park”; and

(b) Add after line 34 the following:

“(2) Gatineau Park is hereby dedicated to the people of Canada for their benefit, education and enjoyment, subject to this Act and the regulations, and it shall be maintained and made use of so as to leave it unimpaired for the enjoyment of future generations.

(3) Maintenance or restoration of ecological integrity, through the protection of natural resources and natural processes, shall be the first priority of the Commission when considering all aspects of the management of Gatineau Park.”.

2. Page 4, clause 5: Replace line 3 with the following:

“Park to anyone other than the Commission unless the person has given the right of”.

Your Committee appends to this report certain observations relating to this Bill.

Respectfully submitted,

TOMMY BANKS  
*Chair*

**Appendix to the Eighth Report of  
the Standing Senate Committee on Energy,  
the Environment and Natural Resources  
(Bill S-210 – Observations)**

The Committee recommends that, in the interests of the ecological integrity of Gatineau Park, the National Capital Commission consider limiting automobile traffic in the Park, and consider the use of alternative fuel vehicles.

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Banks, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

**SALES TAX AMENDMENTS BILL, 2006**

**REPORT OF COMMITTEE**

**Hon. Jerahmiel S. Grafstein,** Chair of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

[ Senator Banks ]

Thursday, June 7, 2007

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

**NINETEENTH REPORT**

Your Committee, to which was referred Bill C-40, An Act to amend the Excise Tax Act, the Excise Act, 2001 and the Air Travellers Security Charge Act and to make related amendments to other Acts, has, in obedience to the Order of Reference of Tuesday June 5, 2007, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JERAHMIEL S. GRAFSTEIN  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Angus, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (1340)

**KYOTO PROTOCOL IMPLEMENTATION BILL**

**NOTICE OF MOTION FOR TIME ALLOCATION**

**Hon. Sharon Carstairs:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That it be an Order of the Senate that on the first sitting day following the adoption of this motion, at 3:00 p.m., the Speaker shall interrupt any proceedings then underway; and all questions necessary to dispose of third reading of Bill C-288, An Act to ensure Canada meets its global climate change obligations under the Kyoto Protocol, shall be put forthwith without further adjournment, debate or amendment; and that any vote to dispose of Bill C-288 shall not be deferred; and

That, if a standing vote is requested, the bells to call in the Senators be sounded for thirty minutes, after which the Senate shall proceed to take each vote successively as required without the further ringing of the bells.

**STUDY ON INTERNATIONAL OBLIGATIONS  
REGARDING CHILDREN'S RIGHTS AND FREEDOMS**

**NOTICE OF MOTION TO REQUEST  
GOVERNMENT RESPONSE ON REPORT  
OF HUMAN RIGHTS COMMITTEE**

**Hon. A. Raynell Andreychuk:** Honourable senators, I give notice that, two days hence, I will move:

That the Senate request a complete and detailed response from the Government to the tenth report of the Standing Senate Committee on Human Rights, entitled: *Children: The Silenced Citizens*, with the Minister of Justice, the Minister of Labour, the Minister of Human Resources and

Social Development, the Minister of Foreign Affairs, the Minister of Public Safety, the Minister of Citizenship and Immigration, the Minister of National Defence, the Minister of Canadian Heritage and Status of Women, the Minister of Indian Affairs and Northern Development and the Minister of Health being identified as the Ministers responsible for responding to the report.

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF PROVISIONS OF CONSTITUTION ACT, 1867 RELATING TO SENATE

**Hon. David P. Smith:** Honourable senators, I give notice, for Senator Keon, that at the next sitting of the Senate he will move:

That, notwithstanding the Order of the Senate adopted on December 14, 2006, the date for the presentation of the final report by the Standing Committee on Rules, Procedure and the Rights of Parliament, authorized to examine and report upon the current provisions of the Constitution Act, 1867 that relate to the Senate, be extended from June 21, 2007, to June 24, 2008.

[Translation]

## QUESTION PERIOD

### NATIONAL DEFENCE

#### UNITED STATES MISSILE DEFENCE PROGRAM

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government in the Senate. Could the minister tell us: what is her government's position on the missile defence shield?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for the question. The position that the government took previously on the missile defence shield has not changed. I expect that the honourable senator has asked this question in relation to the news reports out of the G8 summit. The Prime Minister is urging calm in these speculations about Russia and the United States. However, the government's position, as indicated to the United States earlier, has not changed.

[Translation]

**Senator Tardif:** In 2005, at the Conservative Party convention, after having criticized the Liberal government's position on the missile defence shield, Mr. Harper said, and I quote:

[English]

On missile defence, I will tell you only one story, the same one I told our Parliament in public and the President in private: 'I will not sign on to a deal that Canadians have not seen.'

• (1345)

[Translation]

Does the Prime Minister plan on consulting Canadians about the missile defence shield, as he told his party members?

[English]

**Senator LeBreton:** The honourable senator confirmed in her quotation what I said in answer to her question. The Prime Minister and the government's position on the issue has not changed; any comments made by the Prime Minister about this issue stand.

### FINANCE

#### ATLANTIC ACCORD— OFFSHORE OIL AND GAS REVENUES

**Hon. Jane Cordy:** My question is also to the Leader of the Government in the Senate. I find it hard to imagine that the Leader of the Government in the Senate can actually believe her answer to me yesterday concerning the Atlantic accord. She said:

The accords that were in place the day before the budget in March were in place the day after.

MPs and senators from all political parties know that this agreement was broken. I find it offensive that the leader would tell us the Atlantic accord was not changed in the budget. The Atlantic accord was signed by the federal government and the provinces of Nova Scotia and Newfoundland and Labrador. Nova Scotia and Newfoundland and Labrador signed the accord in good faith. Like the income trust promise, this appears to be another case of promises made, promises broken.

I ask the Leader of the Government in the Senate again: When will this Conservative government end the betrayal of Atlantic Canadians and honour the Atlantic accord?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for the question. In fact, I shall again put on the record exactly what was in the budget. Before I start, I must say that I find it rather amusing to get a lecture from people opposite. When Mr. Chrétien became Prime Minister, he was going to get rid of the GST and cancel the free trade agreements.

**Senator Rompkey:** Irrelevant.

**Senator LeBreton:** It is relevant.

It is important to point out that, over the next two years, compared to what it received in 2005-06, Nova Scotia will receive an additional \$327 million in federal transfers and programs. Minister Flaherty met with provincial officials in Nova Scotia on



May 2. The Deputy Premier, Angus MacIsaac, said after the meeting that the budget infrastructure funding was extremely positive for the province of Nova Scotia.

Budget 2007 fully honours the commitment to respect the offshore accords by allowing Nova Scotia to operate under the existing equalization system for the life of the accord. For 2008-09, Nova Scotia has chosen the new system, which will result in the province receiving \$95 million in additional benefits. Nova Scotia has a year to look at that decision. If the government decides that it wishes to go back to the old system, they are able to do that.

Under the fiscal balance package, we will provide Nova Scotia with more than \$2.4 billion in 2007-08, and it breaks down as follows: \$1.3 billion for equalization; \$130 million for offshore accord offsets; \$639 million under the Canada Health Transfer; \$277 million under the Canada Social Transfer for post-secondary education and child care; and \$42.5 million for the environment, to fight climate change.

The people of Nova Scotia will benefit from tax cuts in the budget, such as the Working Income Tax Benefit, the so-called WITB, which will provide workers in Nova Scotia with \$17.8 million in tax relief.

I will wait until the honourable senator asks a supplementary question before I go on to a second page of figures.

**Senator Cordy:** That is great, except those are not answers. The reality remains that the Atlantic accord has been broken and the people of Atlantic Canada have been betrayed by this government once again.

This morning, in *The Daily News*, a Halifax newspaper, I read a quotation from David Rodenhiser. Because I believed it was so true, I wish to share it with honourable senators:

... Stephen Harper has a phobia of accords: the Atlantic Accord, the Kyoto Accord and the Kelowna Accord. The man must be petrified when passing a Honda dealership.

• (1350)

Under section 36(2) of the Constitution, Nova Scotia is entitled to equalization just like every other province. Under the offshore accord, we settled offshore jurisdiction with Canada in return for 100 per cent of the offshore revenues. This Conservative government is breaking that agreement and asking that we give up our right to 100 per cent of our offshore revenues in order to fully participate in our constitutional right to equalization. The Atlantic accord preserves Nova Scotia's right to 100 per cent of our offshore revenues no matter how the equalization formula may change. Stephen Harper and this government have abandoned a signed agreement. Nova Scotians want nothing more than the Atlantic accord honoured.

Why is this government unwilling to keep their word?

**Senator LeBreton:** I wish to thank the honourable senator for that question. The fact is that Budget 2007 fully kept the agreement that the accords would remain.

[ Senator LeBreton ]

In the case of Nova Scotia, that province has decided to try the new formula for a period of time. I would hasten to point out, honourable senators, that, first, the so-called Kelowna accord was not an accord; it was a press release. It was not called an accord. It was called an accord two months after the fact by *The Globe and Mail*.

On the question of the Atlantic accords, as Senator Carney has pointed out, and as I pointed out yesterday, there would be no Atlantic accords with either Newfoundland and Labrador or Nova Scotia if it were not for the Conservative party in opposition before Mr. Mulroney came into government and then the Conservative government, negotiated by Senator Carney and the premiers in office at that time.

I should also like to respond to Senator Cordy's question by pointing out to the honourable senator that she has a leader in the person of Stéphane Dion who has given support many times in the past for the inclusion of all non-renewable resources and equalization calculations and for a fiscal cap. Just a year ago, on May 5, 2006, on *Mike Duffy Live*, Mr. Dion said — and I quote:

I think you need to have a clause that says whatever is the formula of equalization payments, a province that received equalization payments cannot see its fiscal capacity going above the fiscal capacity of a province that does not receive equalization payments."

**Senator Cordy:** Honour the agreement.

**Senator LeBreton:** The agreements were first signed by the Conservatives. These are yet other examples from Mr. Dion. Mr. Dion said on CBC *Newsworld*, less than six months ago, on this question:

Yes, it would be my preference. This being said, I would be open if I was a prime minister to discuss with the provinces our views, but my preference is to go with the logic. We have ten provinces in Canada. Then you take into account the ten provinces in that formula. All the revenues affect the — the fiscal capacity of provinces. You take into account all revenues.

In the *St. John's Telegram*, on March 10 this year, Mr. Dion said that, "Prime Minister Harper's promise," which he believed was the case, "to exclude 100 per cent of non-renewable revenues from equalization was 'foolish.'" The article also stated that Mr. Dion was emphatic about his disagreement with excluding 100 per cent of resource revenues for the equalization formula. "No, no. I would not commit to this," said Stéphane Dion.

• (1355)

**Hon. Bill Rompkey:** Honourable senators, I want to ask questions on the same subject. I know how difficult this subject is for the Leader of the Government in the Senate, because she worked for Brian Mulroney, who was the author of this accord and who is revered in Newfoundland, unlike the present Prime Minister.

I want to read to her from two documents. The first is a Conservative brochure before the last election, which reads: "There is no greater fraud than a promise not kept."

**Some Hon. Senators:** Hear, hear!

**Senator Rompkey:** The brochure goes on to say:

The Conservative Party of Canada believes that offshore oil and gas revenues are the key to real economic growth in Atlantic Canada.

That's why we would leave you with 100 per cent of your oil and gas revenues.

No small print.  
No excuse.  
No caps.

The second document I want to read from is the 2007 budget speech, page 6:

A fiscal capacity cap will provide fairness by ensuring that Equalization payments do not result in a receiving province ending up with a fiscal capacity higher than a non-receiving province.

That is in the budget speech: no cap in the brochure but a cap in the budget.

What the budget and the government are saying to Newfoundland is: "Stay there. Zap, you're frozen. You can never be a have-province. Do not try to play in the big leagues. Mind your own business and stay where you are, little Newfoundland and Nova Scotia." That is what the government is saying to us.

His Honour would not allow me to wear this cap in the Senate because I would be breaking the rules. I will not break the rules; I will take off my cap. I am asking the Leader of the Government in the Senate to ask the Prime Minister to take off his cap.

**Some Hon. Senators:** Hear, hear!

**Senator LeBreton:** Honourable senators, this reminds me of the old days when George Baker and John Crosbie used to get into it. If nothing else, it was entertaining.

To answer the honourable senator's question, Newfoundland and Labrador will continue to receive the full benefits provided under the offshore accord without a cap, while keeping the equalization regime it had when it signed the accord. Everything in the accord when they signed it is being respected: the accord without a cap, and operating under the equalization scheme as it was when they signed the accord.

The budget provides the province with the choice of two equalization formulae. Provinces can opt into the new equalization formula at any time during the life of the accord, but what was left in place untouched was the agreed-to Atlantic accord without a cap and the equalization in place at the time.

On the fiscal cap itself, the fiscal capacity cap in the new system was recommended by the O'Brien expert panel, which, as the honourable senator knows, was set up by the previous government. Minister Flaherty has said that although the O'Brien panel recommended that the accords be capped, our

government decided not to keep them so the accords the government signed with Newfoundland and Labrador and Nova Scotia would be honoured.

**Senator Rompkey:** As a supplementary question, I am glad the leader mentioned John Crosbie because I want to bring him into the debate. By the way, he is known in Newfoundland as "St. John of St. John's," as Brian Mulroney is known as "St. Brian of Baie-Comeau."

I want to read from a letter from Mr. Crosbie and Rolly Martin to the Prime Minister. Rolly Martin was an adviser to John Hamm. He is really from Newfoundland and he made it all the way to Nova Scotia.—The letter reads as follows:

The Federal Government has chosen unilaterally to change the 2005 Arrangement with Nova Scotia, and Newfoundland and Labrador, with significant financial consequences.

The letter goes on to say:

A consequence of the 2007 Federal Budget is that the 1985 and 1986 Offshore Accords could be unilaterally amended, contrary to their legislation. . . .

The Federal Government will again become the principal beneficiary.

• (1400)

That is not Newfoundland and Labrador and not Nova Scotia, as is in the accord.

The Federal Government will again become the principal beneficiary. . . . For example, Newfoundland and Labrador's annual equalization has already declined significantly from a peak of approximately \$1.2 billion in 1999-2000 to a projected \$477 million in 2007-08, partly because of the increase in its non-renewable petroleum revenues, but also because its population has significantly declined. Meanwhile its per capita debt remains the highest in Canada . . . .

. . . the new Equalization program has side-swiped the 1985 and 1986 Offshore Accords and also the more recent 2005 Arrangement, all of which are meant to operate outside of Equalization and to assist Nova Scotia and Newfoundland and Labrador to improve their economic and financial positions by having access to 100 per cent of their offshore oil and gas revenues, without "clawback", during the life of these Agreements.

. . . there should be no application of a "cap" to the 2005 Arrangement at anytime during its life. This was not the Agreement. . . .

That is what John Crosbie said. John Crosbie signed the agreement, and so did Brian Mulroney.

This was not the Agreement entered into by the three governments, and if not corrected, will set a poor example for future public policy making within the Canadian Federation.



Will the leader ask Stephen Harper to be a gentleman for once in his life and take off his cap?

**Senator LeBreton:** Honourable senators, I thank the senator for reading into the record what was, according to the news reports, John Crosbie's so-called strictly confidential letter.

I want to correct something right now, and our colleague Senator Carney will be correcting the record. I have the greatest respect for John Crosbie but John Crosbie was not in the room and did not sign the original Atlantic accord. It was Pat Carney and Mr. Mulroney, and Pat Carney has written today to *The Chronicle Herald* in Halifax to correct the record.

**Senator Rompkey:** Who will believe he knew nothing about it? He was only the finance minister. He had nothing to do with it.

**Senator LeBreton:** All that to say that Newfoundland and Labrador will continue to receive the full benefits that are provided under the offshore accord, without a cap, while keeping the same equalization regime when it signed the accord. The budget provided the province with a choice, as I said. I have heard some say that they were promised the benefits of the offshore accord without a cap, but were also promised the new formula. How on earth could anyone believe that that is the case? During the election campaign, we promised not to interfere with the offshore accords, without a cap, and respect the equalization formula in place? How could anyone say we also promised the new formula? We did not even know there would be a new formula.

We were the ones talking about fiscal imbalance. The party of the honourable senator was denying the fiscal imbalance. We did not know what the O'Brien commission would recommend, so there is no way that anyone could possibly believe we could say, "We will recognize and respect the accords and, by the way, we also promise the new formula," when at that point in time there was no question of there being a formula, let alone a new formula.

**Hon. James S. Cowan:** Honourable senators, my question is also directed to the Leader of the Government in the Senate. The leader and other government ministers have dismissed suggestions repeatedly that the budget broke the Prime Minister's promise to respect the Atlantic accord, and dismissing it as mere political rhetoric. An article in today's *Halifax Daily News* said "Stephen Harper's Conservatives are vicious, vindictive liars."

**Senator Angus:** Yellow journalism.

**Senator Cowan:** I am sure a letter from Pat Carney will not settle that.

To settle this controversy and eliminate any taint of the partisan rhetoric, will the leader obtain from the Prime Minister or the Minister of Finance, and table in this house at the earliest possible opportunity, a legal opinion confirming the Prime Minister's position that the provisions in the budget honour the guarantees provided to Newfoundland and Labrador and to Nova Scotia in the Atlantic accord?

**Senator LeBreton:** Honourable senators, if the honourable senator insists on reading into the record something that appeared in a publication such as the *Chronicle Herald* today which used

very disparaging comments, would he at least have the decency to provide the name of the author? Was the honourable senator referring to a letter to the editor?

• (1405)

**Senator Cowan:** No, I was referring to an article by David Rodenhiser.

**Senator LeBreton:** The fact is, any one of us could get up on any given day and quote things that have been said about the opposing political party. That does not mean it is a fact or that it is true.

**Senator Cowan:** The Leader of the Government in the Senate does it all the time.

**Some Hon. Senators:** Hear, hear!

**Senator LeBreton:** I do not think that Senator Fortier and my colleagues and I on this side would agree that we are vicious, or whatever the words that were used in the article.

The fact is that when Minister Flaherty was developing the budget, he made it clear that he would honour the commitment of our party when we ran in the election, to honour the offshore accords without a cap and would follow the exact situation that was in place when the accords were signed. That is what the government has done, and no one can say that we did not honour our commitments as they were signed by both of those provinces.

As I mentioned previously, to now say it was the offshore accord plus a future equalization is unfair. When the commitment was made, we agreed to honour the accords without a cap and to continue along with the equalization formula that was in place when the accords were signed. That is the commitment we made, and there is nothing more that can be said. That is exactly what we have been doing.

**Senator Cowan:** That is not what the accord said. That is why I am suggesting that the whole matter might be diffused if the Leader of the Government in the Senate would provide the legal opinion that reinforces the position of the Prime Minister or the Minister of Finance.

Clearly, the Province of Nova Scotia and the Province of Newfoundland and Labrador have received legal opinions quite to the contrary.

I am asking that Senator LeBreton obtain the legal opinion, which I am sure the Prime Minister has, and table it in this house to make the matter more clear.

**Senator LeBreton:** The accords were signed by the previous government. During the election campaign, we committed to honouring the accords as they were signed and under the circumstances in which they were signed, and that is exactly what we are doing.

I will take the question as notice and ascertain whether it is even possible to provide an answer.

**Senator Cowan:** I would appreciate that. My understanding of the Atlantic accord is that it talked about honouring the equalization regime as it existed from time to time, not freezing in place the equalization regime as it existed when the Atlantic accords were signed.

Therefore, I suggest that the honourable senator in taking my question as notice ask for that opinion, to address that precise point. I think that is the key point of misunderstanding, to put it mildly.

**Senator LeBreton:** That is the interpretation of the honourable senator. I will certainly add that to the notice and attempt to obtain an answer.

## HERITAGE

### WAR MUSEUM—PLAQUE ON WORLD WAR II ALLIED BOMBING RAIDS ON GERMANY

**Hon. Gerry St. Germain:** Honourable senators, my question is also directed to the Leader of the Government in the Senate.

**Senator Moore:** On the Atlantic accord?

**Senator St. Germain:** No, I do not want to get into the importance of any issue in this place. I am just putting forward the concerns of the Toronto and Greater Vancouver branches of the Aircrew Association in regard to the Enduring Controversy plaque that appears in the Canadian War Museum.

• (1410)

Honourable senators, many veterans who flew in the Second World War are upset at this situation. I believe our former colleague, the Honourable Archibald Johnstone, flew in the campaign that is referenced in that panel.

The Canadian War Museum has sought out experts to provide their opinions on the panel and the air war exhibit in general. The decision of the expert panel came back supporting the Canadian War Museum's position.

Could the Leader of the Government in the Senate find out what expertise was brought to the fore in this particular situation? This decision has not, in any way, shape or form, changed the attitude of members of air crew associations.

I would like to know — and I think they have a right to know — how the experts were picked, whether they actually served in any theatre of action and why Mr. Rabinovitch and Mr. Geurts have not addressed in a more compassionate way what the air crew associations have brought forward.

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Senator St. Germain is referring to the contentious representation of the bombing of Dresden. This matter has been raised in this place before. Great concern has been expressed by veterans, airmen in particular, as to how this exhibit at the War Museum has been displayed.

Museums operate independently. Having said that, I am also aware that a panel was struck. I certainly heard from quite a number of veterans as a result of the findings of that panel. I believe Jack Granatstein was a member of that panel as well.

In any event, I understand the concern of the honourable senator. I will certainly take the question as notice the request that we provide information as to what criteria was used and what expertise was required for that panel to deliver the decision with which they came forward.

As well, honourable senators, I believe this issue is also a matter of discussion before the Subcommittee on Veterans Affairs. I am not certain at what stage of deliberations the committee is at, but I understand they are looking into this matter as well. I will try to ascertain on what basis the panel was chosen and what criteria were used.

• (1415)

## ORDERS OF THE DAY

### NON-SMOKERS' HEALTH ACT

#### BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

**Hon. Mac Harb** moved second reading of Bill S-228, to amend the Non-smokers' Health Act.

He said: Honourable senators, I am honoured to rise to speak today, one year after you joined me in passing a motion, seconded by Senator Keon, calling for amendments to the Non-smokers' Health Act, amendments that would ban, once and for all, smoking rooms in workplaces and public spaces under federal jurisdiction.

Twelve months after that motion passed unanimously and was sent to the other place, Canadians who work in areas under federal jurisdiction are still being exposed to the deadly effects of second-hand smoke. The legislation has not been updated. I rise today to ask for your support for legislation that will fulfil the intent of that motion by amending the Non-smokers' Health Act to close the doors on smoking rooms in federal workplaces.

This is not to say that our motion was ignored. In fact, after conducting air-quality studies to find out what we already knew, that second-hand smoke is deadly, the Minister of Labour has agreed that these smoking rooms must close. I commend the minister and his staff for making a commitment to close the rooms, but I am, as many, disappointed that he has chosen to work around the flawed legislation that allowed them to exist in the first place.

Unfortunately, honourable senators, the minister has chosen to change the regulation under the Non-smokers' Health Act to close down the smoking rooms rather than address the problem at its source.

As honourable senators know, regulations are made under the authority of an act. The act specifies who may make regulations in the scope of the regulation-making authorities. Regulations must stay within this scope and, consequently, they are often called "delegated" or "subordinated" legislation.



Well, honourable senators, I am uncomfortable having this issue "delegated."

[Translation]

Canadians deserve a tough measure to make up for the shortcomings of the Non-smokers' Health Act. As legislators, it is our responsibility to ensure that the act is amended and its shortcomings eliminated.

The Non-smokers' Health Act governs the use of tobacco in over 25,000 workplaces under federal jurisdiction. This legislation, which was passed 20 years ago, allows employers in some workplaces under federal jurisdiction to designate smoking areas. Surprisingly, it also allows employers to require employees to perform some of their tasks in a smoking room or area.

[English]

Allow me to quote section 3(1) of the existing act. This section reads, in part:

3(1) Every employer, and any person acting on behalf of an employer, shall ensure that persons refrain from smoking in any work space under the control of the employer.

However, the act goes on to say:

(2) An employer may, to the extent permitted by the regulations, designate for smoking

(a) enclosed rooms under the control of the employer other than rooms normally occupied by non-smokers; and

(b) areas under the control of the employer on an aircraft, train, motor vehicle or ship or in an airport passenger terminal, railway passenger station, interurban bus station or marine passenger terminal other than areas normally occupied by non-smokers.

That section goes on to say:

(3) Notwithstanding subsection (1), an employer may require employees, by reason of the nature of their duties, to perform those duties in a room or area designated for smoking under subsection (2).

• (1420)

Notwithstanding the fact that we already have clear evidence that second-hand smoke is deadly, the present legislation, as it is written, still allows smoking rooms to exist. Furthermore, the legislation gives the employer, the Government of Canada, the authority not only to allow those rooms to exist, but also to force employees to work in those areas, therefore exposing them to further health risks.

The Minister of Labour is content to leave this legislation in place. I think, honourable senators, he is making a big mistake. Failure to remove the offending clauses in the legislation could leave the door open to a regressive regulatory change in the future. It might not happen, but why take a chance?

Honourable senators, our parliamentary system works by passing legislation, ensuring that its intent is in keeping with the priorities and values of Canadians. Once passed, we can add or change regulations relating to that initial intent. I would contend, however, that using regulatory change in this instance could allow a future minister, under pressure from industry, for example, or lobby groups, to revisit this regulatory change. The argument could be made that as the original law makes provisions for designated smoking rooms, the intent of Parliament was to allow them, and so the regulation could be changed once again to permit smoking rooms in areas under federal jurisdiction without having to return to Parliament for approval.

Slipping in an administrative change that is not binding on future ministers or governments is not good enough. This legislation needs to be amended if it is to permanently reflect the priorities and values of Canadians in 2007.

[Translation]

Furthermore, those of us who are aware of the work involved in amending legislation through the regulatory process know all too well how long it will take to eliminate smoking areas.

Even if the minister makes drafting this legislation a priority, and even if the Treasury Board's Regulatory Affairs section gives it the green light, it is a good bet that the regulatory measures will get bogged down once they reach the Department of Justice where a whole lot of regulations are tied up in the backlog. Then they will be sent back to the Treasury Board and published in the *Canada Gazette*.

Given the typical pace of the regulatory process, we can expect this to take at least 18 months. During that time, smoking areas in federal buildings will be maintained, thereby compromising the health of Canadians and suggesting to smokers that the federal government tacitly condones this life-threatening activity.

[English]

By amending the act, we are ensuring that parliamentarians in the Senate and in the other place uphold their commitment to protect the health of Canadians. Canada has been a world leader on the tobacco file, but the existence of these smoking rooms has been a national and, indeed, international embarrassment. I believe all honourable senators were ashamed when footage of the very legal smoking rooms in the CBC building in Toronto made prime-time news. To put it simply, shutting these smoking rooms is our responsibility as legislators.

This is why I introduced this legislation to amend the outdated act. Bill S-228 will delete the words "designated smoking area" from the Non-Smokers Health Act. It contains a comprehensive definition of work spaces which will be smoke-free, including parking garages and around entrances to buildings.

Honourable senators, this legislative amendment takes into consideration the cultural significance of tobacco in the lives of Aboriginal Canadians and the ceremonial role of tobacco in cultural and spiritual practices and ensures that this role can continue.

One year ago, I stated that we needed to set an example for other jurisdictions. Sadly, I will amend that now to say that we need to follow the example of other jurisdictions. Municipalities across Canada have led the way on this file. Provincial authorities have been forced to play catch-up and have responded admirably.

Even Alberta, honourable senators, one of the last holdout provinces, has overtaken the federal government. The Government of Alberta has announced that it will introduce legislation this fall to ban smoking in all public places and work sites.

A new international report, *Global Voices for a Smokefree World*, was released last week by the Global Smokefree Partnership on the World Health Organization's World No Tobacco Day, which, incidentally, focused attention this year on the importance of smoke-free air laws.

The report shows that nine countries now have laws that require smoke-free air in all workplaces, including restaurants, bars and pubs. These countries are Ireland, Uruguay, New Zealand, Bermuda, Iran, Scotland, Wales and Northern Ireland. The law in England will take effect on July 1. Many other countries, including France, Italy, South Africa and Hong Kong, have laws covering most workplaces, and the European Union is now considering a proposed continent-wide ban on smoking in public places.

Canada, however, joins Argentina, Australia and the United States as nations that have strong smoke-free laws at the provincial, state and city levels, but not at the federal level.

The report predicts that the momentum behind smoke-free air laws will surge now that 146 countries have ratified the Framework Convention on Tobacco Control, a global tobacco control treaty that requires government to protect workers and the public from second-hand smoke. Canada ratified the convention early and we passed it in 2004.

The continued existence of these smoking rooms flies in the face of our commitment to the World Health Organization and devalues the hard work being done by Health Canada on other aspects of our commitments under the convention.

Dr. Margaret Chan, the head of the World Health Organization, said:

I urge all countries that have not yet done so to take this immediate and important step to protect the health of all by passing laws requiring all indoor workplaces and public places to be 100 per cent smoke-free.

Smoking is the single most serious public health problem in Canada, killing more Canadians than car accidents, murders, suicides and alcohol combined. Smoking results in 45,000 deaths every year in Canada. One thousand of those deaths are non-smokers who die from smoke-related lung cancer or heart disease.

When the results were released from the air quality tests run by Labour Canada in smoking rooms across the country, the minister reported — and this should come as no surprise —

that they found evidence that smoking rooms are a danger to those who enter them, whether to smoke there or to clean them. The levels of very fine particles — which help spread diseases like bronchitis and which are carcinogenic — can be as much as 245 times higher inside the smoking rooms than outside of them.

In his press release, Minister Blackburn also acknowledged that:

Smoking in the workplace is a clear and immediate threat to the health of Canadian workers and contributes to indoor air pollution and the failing health of Canadians.

I repeat his words, “clear and immediate threat,” and yet the rooms remain open, creating second-class employees of those who work under federal jurisdiction.

Organizations such as the Canadian Cancer Society, the Canadian Medical Association, the Canadian Council for Tobacco Control and Physicians for a Smoke-Free Canada, are calling for a nationwide ban on second-hand smoke.

• (1430)

Provincial legislation such as the Minister of Health's promotion in Ontario has publicly called for an end to federally-regulated smoking rooms in airports, ports and the CBC headquarters in Toronto.

Honourable senators, it is interesting to note that employees of federal prisons filed mass grievances against Corrections Canada because of the excessive exposure to smoke in areas where prisoners are permitted to smoke. Under the Non-Smoker's Health Act they are required to perform their duties in these rooms and these smoking areas despite the danger to their own health. This is why I believe that we collectively, as legislators, need to correct this law once and for all. We have been patient. We sent our motion to the other place. We voted for it unanimously. It sat and languished on the Order Paper for more than a year without action.

We were assured that the minister responsible had made the outdated Non-Smokers' Health Act a top priority and that smoking rooms would be closed. Sadly, the rooms are still open, as far as I am aware, and will be for months and possibly years to come.

The proposal of the minister to proceed with changes to the regulations through amending the legislation is simply not good enough.

[Translation]

Generally speaking, we agree on the need to close smoking rooms. We must now reach an agreement on the best way to go about it. Honourable senators, I think we owe it to Canadians to correct the legislation that currently puts their lives in danger. It is not enough to temporarily amend the regulatory provisions. We have bad legislation. We must correct it. All parliamentarians, both here in the Senate and in the other house, must work to ensure that this legislation is up to date, comprehensive and complete.



[English]

Honourable senators, when I spoke one year ago on this subject, along with our colleague Senator Keon, we quoted anti-smoking crusader Heather Crowe, who at that time was dying of cancer caused by second-hand smoke. We spoke about her support for the smoke-free motion. Heather is gone now, but her supporters and friends have created a lasting memorial by establishing Ottawa's first smoke-free park. The Heather Crowe Memorial Park will be 100 per cent smoke free.

Honourable senators, I am asking for your support in order to pass this legislation as quickly as possible so that we can say the same about workplaces under federal jurisdiction: 100 per cent smoke free.

On motion of Senator Di Nino, debate adjourned.

## MEDICAL DEVICES REGISTRY BILL

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Harb, seconded by the Honourable Senator Keon, for the second reading of Bill S-221, to establish and maintain a national registry of medical devices.  
—(Honourable Senator Comeau)

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I wish to say a few words on this bill. However, at the present time, I am still in the process of preparing my notes. I would like to be given the time to wrap up the comments I need to wrap up before providing my speech.

**The Hon. the Speaker:** Honourable senators, is it agreed that the item stand in the name of Senator Comeau?

**Hon. Senators:** Agreed.

On motion of Senator Comeau, debate adjourned.

## CANADA SECURITIES BILL

### SECOND READING—DEBATE ADJOURNED

**Hon. Jeremiah S. Grafstein** moved second reading of Bill S-226, to regulate securities and to provide for a single securities commission for Canada.—(Honourable Senator Grafstein)

He said: Honourable senators, I rise to speak in support of Bill S-226, to regulate securities to provide a single securities commission for Canada. If adopted, this bill would create one single regulatory body for all 13 of the country's current securities markets.

Honourable senators, we live in a complex world. Canada stands alone amongst all industrial nations in that we do not have a single national regulator for our security markets. Having one regulator would improve the efficiency and the productivity of Canada's capital markets. It would provide Canadian corporations and their investors with certainty, consistency

and protection afforded by a national regulatory framework. Moreover, the cost of capital would go down for Canadian corporations and the system will work faster. More foreign companies would be enticed to enter Canada's capital market. This proposed legislation would modernize Canada's capital markets and pull us into the 21st century; this bill is long overdue. Around the world, developed and developing countries are quickly establishing single securities regulators in order to create economies that are competitive and efficient — Singapore, China, India and Poland, to name a few. Canada is behind all of our global competitors.

On May 29, the *Financial Times* reported that New York Governor Eliot Spitzer, a staunch advocate of an effective and competitive securities regulator, called together a blue-ribbon panel to modernize and streamline the American financial services regulation, replete with powerful investor protection, in order to compete better with European and Asian markets.

Honourable senators will recall that the United States, during the Depression, established a single securities regulator located in Washington as part of the "New Deal." This revolutionary change marked the launch of America as the leading capital market in the world. Canada, too, took some steps to modernize its economy at the time with the establishment one central bank. Other steps in the securities area were not undertaken by the federal government, so a vacuum developed. It was filled by a plethora of provincial and territorial regulators, now 13 in all, each with somewhat different rules, regulations and procedures.

Senator Baker drew my attention to the tangled securities case law. In case after case before Canadian courts, the different tests and standards in provincial and territorial legislation made legal redress complicated, slow and ineffective. The frustration of the courts is easy to discern if one reads these cases. No single government seems to take into account or to move to improve this hopeless legal situation or is able to rectify this morass. These different jurisdictions make it virtually impossible for shareholders to bring a successful action or for underwriters to bring a successful suit for offences such as misleading advertising in IPOs issued across Canada because of a hodgepodge of different legal tests imposed by various regulatory regimes in Canada. Read these cases and ask where responsible government might redress these apparent flaws and gaps in the law.

Last week, in response to my tabling of the bill, I received letters and emails from across the country. Virtually all of the correspondence was in agreement that there is a pressing need for a single regulator. Let me quote from two of the letters I received. The first is from a dynamic Canadian company seeking capital to expand its growing business. In this letter, the CEO made the following observations:

My company and I would like to congratulate you on probably being what would be called the only forward thinking politician in Canada.

That is a small commercial; I thought I would include that. Let me now get to the substance of the letter, which states:

Our company has moved our operations and technologies to the U.S.A. because of this being one of our issues. The lack of National Securities Regulation.

Presently our company has drawn interest from many countries around the world as we are at the stage of doing an IPO leaning more towards Asia or Dubai. Our company at full production would provide for over 3 billion a year in exports per factory and produce demand that extends out 27 years with three factories running at full capacity. In doing the math over this time frame that could have meant 243 billion in exports, 7,800 direct jobs and established 19,900 auxiliary jobs that Canada would have had an opportunity to compete for but due to the lack of such a single securities body it makes it impossible for us to even put Canada within the top six locations we are considering.

• (1440)

Honourable senators, if that were not chilling enough in support of this bill, let me quote from yet another email I received. This thoughtful letter is from an investor, securities lawyer and securities policy adviser:

I watched your appearance on BNN concerning your private member's bill for a national securities regulator and I am responding to your request for feedback.

I wish to express my support for this type of federal legislation and congratulate you on its introduction. Rather than commenting from a transaction or compliance perspective, on which I expect you will receive considerable feedback and on which others have considerably more involvement than me, I will comment from the perspective of the policy-maker, in which I have experience in two different decades.

From 1990-92 I worked on policy matters at the OSC, having been hired in the International Markets Branch on its formation. My work included much of the drafting of the multi-jurisdictional disclosure systems, the major policy initiative that came into effect during that period, and preparing the recommendations of the Canadian Securities Administrators for use by the federal Department of Finance in negotiating a free trade agreement with the United States and in negotiating the agreement that led to the creation of the World Trade Organization.

As contract staff at the OSC from 1999 to 2000 and then acting as a consultant to the OSC from 2000-2004, I mostly worked on proposed changes in the regulation of the retail side of the securities industry. More recently I have done some consulting work for the federal Department of Finance relating to the proposal for free trade in securities.

Based on my experience, I wish to make the following observations:

1. The securities rule-making process is excessively cumbersome and wasteful of government resources in attempting to achieve a consensus of 13 regulators. For those regulators who do not actively participate in a regulatory initiative, their involvement in the initiative is just a waste of their time in contributing nothing to the process, though they have a necessary involvement in approval of the initiative.

For those regulators who actively participate in a regulatory initiative, the process becomes very cumbersome and drawn out, resulting in a greatly reduced ability for regulators to act in a timely manner and sometimes in a loss of momentum that can kill a useful initiative.

2. The attempt to achieve a consensus of 13 regulators opens the door for industry to attack or delay an initiative by successfully lobbying just one of the larger regulators, including taking advantage of disagreements between Ontario and British Columbia.

3. My experience is that the rule-making process has gotten more cumbersome between the two decades, not less.

4. Opponents of a national regulator cite the existence of state security regulators in the United States as justification for provincial securities regulation in Canada. However, the existence of state regulators does not impede the ability of the U.S. SEC to enact rules or the U.S. government's ability to enact legislation.

5. You noted that the opposition to a national securities regulator comes from those with a vested interest in the status quo. I strongly agree with that comment. Securities policy concerns and goals are fundamentally the same among the provinces, making the current system of provincial regulation highly artificial.

6. Notwithstanding the considerable abilities of staff of the federal Department of Finance, I would regard the Department to be inherently disadvantaged in negotiating securities matters with their counterparts in other countries as a result of the federal government's lack of involvement in regulating securities.

7. I understand the Canadian government has significant involvement in the current initiative towards free trade in securities. However, this initiative is based on a system of substituted compliance based on a finding of equivalence between two regulatory systems. Even if this concept is accepted in the future by the United States and other G7 countries, it is quite possible that Canada could be left out of its implementation because of the need for other countries to make this determination of equivalence with 13 regulatory systems, unless they decide to limit free trade in securities to certain provinces, such as Ontario and possibly Quebec.

He concludes by saying:

It appears that the best that can be said for the current system of securities regulation in Canada by the provinces and territories, including the new passport initiative, is that the system could be even worse than it is. As an investor, securities lawyer and taxpayer, I don't think it's enough.

Finally, honourable senators, in a report on May 30, just last week, in the *International Herald Tribune*, the headline reads: "IPO earnings in U.S. losing the lead to Europe."



This article notes that for the first time since World War II, while bankers on Wall Street are earning less from initial public offerings in Europe than in the United States, the gap is rapidly closing, with more than \$1.1 billion in fees from European IPOs compared to \$1.4 billion from U.S. initial sales.

The move towards favouring London is here to stay. The big headline is: "London is rapidly becoming a new Big Board."

Honourable senators, 14 out of 15 of the world's biggest IPOs were listed in Europe this year because of lower fees — regulatory lag. As a result, the United States Secretary of the Treasury, Mr. Henry Paulson, Jr., has also called for streamlining securities rules and curbing shareholder lawsuits to increase competition with regulated overseas markets. Unless such changes are made, it is predicted the United States will lose its place as the world's leading financial centre. Canada lags far behind the United States.

Why is this important reform to our economy necessary? Why is time of the essence? Global capital — and we read this every day in our newspapers — does not sit still. It moves effectively and promptly to the most efficient venue.

Why is our capital market the essence and heart of Canada's growth and prosperity? Capital means jobs, growth and innovation. Capital provides the engine that drives our tax system and supports our social net. For scarce capital to be deployed directly and not frittered away in a costly, cumbersome regulatory system will simply create more jobs, greater productivity, greater efficiency and greater prosperity for our citizens.

No reform is more immediate and vital to the vibrancy of our economy. Our global competitors are moving to modernize their regulatory system and their economies as we speak. It is with great modesty that I say, having studied this subject for over 40 years, this is the most important step to modernize our economy since the creation of the Bank of Canada.

Honourable senators, I do not intend to try your patience any longer. *Res ipsa loquitur*; this matter speaks for itself.

Honourable senators, I urge your support and speedy approval of this proposed legislation at second reading so that this bill might be referred to committee for careful consideration and review.

Let me conclude with this gentle reminder: Every federal finance minister in the last 50 years at some time or another urged the creation of a single securities regulator for Canada, yet no prime minister has been prepared to invest his political capital in this essential reform. Honourable senators, the Senate can now lead the way.

This bill addresses the question of responsible government. In recent years this call has been taken up repeatedly by the Governor of the Bank of Canada. This is the time. If not now, when? Let us move this bill to second reading as quickly as possible and get it to committee.

**Hon. Lowell Murray:** Honourable senators, I congratulate the honourable senator on his speech and thank him for his initiative. At this point I have no substantive problems with the bill, although I would want to hear the debate in the chamber and at committee.

I have several comments on process, which I shall try to formulate by way of questions so that the honourable senator can respond immediately.

First, it occurs to me that if this bill receives second reading, it would normally be referred to the Standing Senate Committee on Banking, Trade and Commerce. That would be a mistake in this case, I believe, because the Honourable Senator Grafstein is both sponsor of the bill and chairman of the Standing Senate Committee on Banking, Trade and Commerce. I am well aware that there are precedents for this happening, including, I believe, at least one in which I was personally involved. However, most of the precedents are bad ones and I would implore the honourable senator in the discussions that he will no doubt have with the leadership on both sides, where these things are resolved, to find another committee to which to send this bill.

Second, I hope that the study by the committee will be sufficiently detailed as to provide for testimony from constitutional experts and from the provincial governments, who obviously have views on the matter.

• (1450)

**Senator Grafstein:** I anticipated the honourable senator's question. It would be my intention that this matter should be referred to the Standing Senate Committee on Banking, Trade and Commerce, if I can convince my colleagues to do that. It would be my intention to recuse myself as chairman but to sit on the committee. I have discussed this matter with the deputy chairman, Senator Angus. He is familiar with this particular matter. He shares my enthusiasm for the subject matter. I am sure that he and Senator Moore, who can be acting deputy chairman, can conduct the hearings. I would recuse myself from the leadership but would actively participate on the bill, which I think is appropriate.

The second question is important — the constitutionality of the bill and provincial considerations. It would be certainly my interest in having the provinces and the regulators of each one of the commissions attend and the constitutional matter be dealt with at committee. I have already satisfied myself endlessly that the federal government has the power to do this. It has the power under the interprovincial power; it has its Criminal Code powers.

Quite frankly, this would remedy a huge flaw in our system, that is, Canadians who are charged with offences not being charged in Canada but being charged in the United States. Each day, honourable senator, I pick up the newspaper and read about Canadians being charged with white collar crimes in the United States, and I cringe. I say to myself, "Where is our sovereignty?" This bill will go a long way to restoring our sovereignty on securities matters and security offences.

**Hon. Marcel Prud'homme:** Did I hear the honourable senator say that he sees no conflict of interest because he trusts that Senator Angus will replace him and he knows Senator Angus shares all his views? In that way, Senator Grafstein is telling us that Senator Angus is a duplicate of himself and, therefore, he is not answering the questions and apprehensions put forward by Senator Murray.

**Senator Grafstein:** Senator Prud'homme did not listen carefully; he is a usually a careful listener. What I said was that Senator Angus shares my enthusiasm for the subject matter. I did not say that Senator Angus agrees with the bill or the content of the bill. My understanding is that he has not read the bill in totality.

**Senator Prud'homme:** Read the blues.

**Senator Grafstein:** Having said that, Senator Prud'homme has sat on many committees where he had a passionate view on the subject matter and that did not prevent him from participating on these committees. I am prepared to accept the wisdom of our leadership and the judgment of my colleagues on this side who sit on the committee to ensure that I do not overstep my boundaries.

**Hon. Francis William Mahovlich:** Send it to Fisheries.

I should like to ask the senator to comment on the comments made by David Brown on this bill.

**Senator Grafstein:** I have not had the opportunity to read them, honourable senators.

On motion of Senator Nolin, debate adjourned.

[Translation]

## DRINKING WATER SOURCES BILL

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Joyal, P.C., for the second reading of Bill S-208, to require the Minister of the Environment to establish, in co-operation with the provinces, an agency with the power to identify and protect Canada's watersheds that will constitute sources of drinking water in the future.  
—(Honourable Senator Comeau)

**Hon. Pierre Claude Nolin:** Honourable senators, I am pleased to rise here today to participate in the debate at second reading of Bill S-208.

This private member's bill calls on the Minister of the Environment, in cooperation with the provinces, to establish an agency with the power to identify and protect Canada's watersheds. In other words, once adopted, this bill would compel the Minister of the Environment to conclude an agreement to establish a federal-provincial agency to administer lands in a designated watershed.

In addition, this bill sets December 31, 2007, as the deadline for concluding the agreement or presenting a progress report to both the Senate and the House of Commons. The bill, which stands in the name of the Honourable Senator Grafstein is designed to protect our drinking water resources. This is a goal we can all get behind.

However, I believe — as does the government, which I consulted before sharing these remarks — that this bill poses certain problems. To the current water management system, it

would add an administrative level that would be expensive and far removed from the decision-making process on land use.

Honourable senators, when we examine bills, we need to keep in mind certain realities of our federal system of governance. For example, could this bill present constitutional problems or complicate the division of powers, or both? Are we not required to respect the division of powers between the federal and provincial governments?

In addition, would Bill S-208 duplicate certain legislative functions and other existing mechanisms, at both the federal and provincial levels? Is the purpose of the bill in line with what our provincial governments expect of their federal partner?

From this perspective, Bill S-208 raises some serious questions. Honourable senators, the fact is that the provinces have primary responsibility for water management and drinking water supply. Many aspects of land use planning and development, which can have an impact on water quality and availability, come under provincial jurisdiction.

The proposals in Bill S-208 would conflict with this constitutional reality. The same reasoning can apply to Bill S-205, which also stands in Senator Grafstein's name and is aimed at amending the Food and Drugs Act in order to define watersheds as a food, which would place them under federal jurisdiction.

When a forerunner to Bill S-205 was debated in the Senate by former Senator Beaudoin, a recognized expert on constitutional issues, our former colleague established certain basic facts about the bill's main objective. These facts also apply to Bill S-208, and our former colleague's words bear repeating:

... jurisdiction over water, particularly water supply systems and water purification, falls under provincial jurisdiction.

With regard to property rights and civil law, our former colleague was of the opinion that the fundamental power lay with the provinces, as clearly established by section 92(13) of the Constitution Act, 1867. Senator Beaudoin added:

... section 109 of the Constitution Act, 1867, provides that the provinces are the owners of the natural resources located on their territory. There is no doubt that water is a natural resource.

I would also like to remind the honourable senators that Senator Beaudoin, when raising these issues, also mentioned the fact that another eminent constitutional expert, Professor Hogg, in his book, *Constitutional Law in Canada*, was of the same opinion.

Consequently, we must ask ourselves if Bill S-208, which proposes to establish a new federal structure in an area of provincial and territorial jurisdiction, might not be poorly received by some, if not all, provinces and territories.



Honourable senators, our federal system works best when each level of government respects the jurisdictions of the others, so as to meet the needs of our citizens.

• (1500)

Although it was introduced with the best intentions — and I must commend Senator Grafstein on his passion in raising an issue such as water quality — Bill S-208 appears to violate the principle I just described.

As Senator Beaudoin pointed out with respect to Bill S-205, standing in Senator Grafstein's name, it is clear that the provinces are responsible for water and watersheds, with the notable exception of First Nations lands and interprovincial waters.

It seems logical that Bill S-208, by placing some 21,000 municipal water systems under the responsibility of a single authority established through federal legislation, could represent an encroachment into provincial jurisdictions in a similar way to Bill S-205.

That said, there are certain issues related to watershed management that we should take into account. But it seems that Bill S-208 is simply not the solution.

Many of the provinces and territories have already implemented initiatives. In my province of Quebec, integrated watershed management has been the primary focus since the water policy was adopted in 2002. The main objective of the policy was to reform water resource management. Under this umbrella policy, watershed management in Quebec was considered from both the local and the regional perspective.

It is also based on an ecosystems approach, with a view to promoting sustainable development and protecting public health. The key to this policy is that it considers watersheds as planning units for water quality. The purpose of all this is to better understand the problems related to water quality, supply and aquatic ecosystems, while trying to find sustainable solutions.

The purpose of Quebec's watershed management policy is to make it easier to set priorities by taking into account the cumulative impacts on aquatic ecosystems.

The key players in watershed management in Quebec are the organizations responsible for the watersheds. These organizations consist of groups of stakeholders who participate in watershed management such as regional county municipalities, towns, users, environmental groups and citizens.

The main goal of these organizations is to establish a general plan for water, including the monitoring and analysis of the watershed, the problems to be resolved, directions to take and objectives to achieve. By adopting an integrated watershed management approach, Quebec's water policy has improved the establishment of consensus and the responsibility taken by the various stakeholders and the public in the management of water and aquatic ecosystems.

Moreover, Quebec plays an international role in the integrated management of watersheds. For example, Quebec is a member of the International Network of Basin Organizations. Created

in 1994, this network has 134 member organizations from 51 countries, including France, Poland, Algeria, Brazil, Mexico, Spain, Morocco, Hungary, Romania and the Ivory Coast. A Quebecer was even president of the network from May 2002 to January 2004. Promoting the integrated management of watersheds as an essential tool for sustainable development is at the heart of the network's mission.

Honourable senators, I am listing the elements of Quebec's watershed management policy to show that each Canadian province and territory already has its own strategic approach in this area.

A comparison of the experiences of the provinces and territories with respect to the management of watersheds and efforts to ensure the quality of drinking water shows to what extent it is difficult to create a single Canadian policy on this issue. For example, Ontario has its own protection measures for drinking water supplies, which require each municipality to implement plans to cover management, watersheds and drinking water protection.

Honourable senators, even taking these various approaches into account, it is not out of the question for the federal government to play a role in the water issue. In fact, Budget 2007, which includes a national water strategy, contains some major strategic initiatives.

However, the federal measures are primarily designed to offer financial, scientific and technical support and to support the efforts of the provinces and territories. Thus, instead of trying to impose the kind of federal superstructure proposed in Bill S-208, which would duplicate the provinces' efforts or encroach on provincial jurisdiction, the federal government's efforts should be focused elsewhere.

Specifically, they should focus on improving existing mechanisms to find better ways to manage our hydrographic systems, not on supplanting the work and priorities of provincial and territorial governments. The idea of negotiating collaborative management and watershed designation mechanisms, as proposed in Bill S-208, has existed in Canada for 37 years.

Another piece of legislation, the Canada Water Act, which was enacted on September 30, 1970, established a cooperative framework with the provinces and territories to conserve, develop and use Canada's water resources. This act sets out a wide range of federal activities conducted under the authority of the act, including significant water research, participation in various federal-provincial agreements and a public information program.

In brief, the act is made up of four parts covering four key areas: Part I provides for the establishment of federal-provincial consultative arrangements for water resource matters; Part II envisages federal-provincial management agreements where water quality has become a matter of urgent national concern; Part III provides for regulating the concentration of nutrients in cleaning agents and water conditioners; and Part IV contains provisions for the general administration of the act. I find it rather surprising, however, that Part II of this act is not being implemented and that the consultative committees have remained silent.

Before I rose, I spoke with Senator Grafstein about a suggestion that I wanted to make. If I may, I would like to suggest that, instead of creating new legislation, that is, a new structure as proposed in Bill S-208, we must ensure that the existing legislation, the Canada Water Act, is fully operational in its entirety. Additionally, the Standing Senate Committee on Energy, the Environment and Natural Resources — incidentally, I was able to speak with the chair of that committee before addressing you here today — must report on that legislation and, if necessary, recommend to the other house that the act be amended in order to harmonize government actions at all levels. We must bear in mind that, in the past, the federal government's role as coordinator has been expressed in scientific advice, information, and identification of target programs, specifically —

**The Hon. the Speaker:** Honourable senators, I regret to advise the honourable senator that his time has expired. Would the honourable senator like to request an extension of his time?

**Senator Nolin:** I would like five more minutes, if my honourable colleagues will agree.

**The Hon. the Speaker:** Is it the pleasure of the Senate to grant Senator Nolin another five minutes?

**Hon. Senators:** Agreed.

• (1510)

**Senator Nolin:** Honourable senators, the actions of all governmental actors must be harmonized. On this point, my comments are in line with the bill sponsored by Senator Grafstein. We agree on the goal, but not on how to reach it.

In the past, the federal government's coordinating role has taken the form of scientific advice, information and targeted programs. We have seen major investments in infrastructure projects for water purification, to support the provincial and territorial water management systems. Adopting other cooperative management mechanisms is certainly a laudable goal, but we must never lose sight of the repercussions this could have on provincial and territorial authorities.

The federal government has designated water and watersheds as a priority and will consider negotiating on management issues in a broader policy context.

I took the liberty of doing some research on the implementation of the Canada Water Act. This act requires the Minister of the Environment to lay an annual report before both houses of Parliament on the implementation of the act. The last time such a report was tabled in the Senate and the House of Commons was in 2002.

We would have many questions for the Minister of the Environment and his officials about how they are making use of this existing legislative tool. This information could be of use to us, considering that the report is five years old. That is why I decided to discuss this with Senator Grafstein and Senator Banks, the committee chair, to see whether it would be a good idea to expedite the process instead of reinventing the wheel by creating a second federal statute.

Let us take the statute we have, which has been in existence for 37 years and already provides for mechanisms. We will amend it if necessary. Let us ask the Minister of the Environment and his officials our questions, to find out about the water situation and federal jurisdictional powers.

[English]

**Hon. Jeremiah S. Grafstein:** I will not try the patience of the chamber much longer, but I do want to correct one factual question.

I want to commend the honourable senator for his very thoughtful analysis of the subject matter. He has closely looked at it, as have I. We have come to different conclusions, but we both share the objective of mapping our water sources and preserving them for Canadians.

The only factual error I wish to bring to his attention — the rest of which I shall address in my own comments — is the question of constitutionality. My Bill S-205 was deemed constitutional by the government itself in committee under Senator Banks. Senator Nolin will recall that the earlier edition was referred to committee, where it was held up because of the opinions of some senators that it was not constitutional, and that was all finished and concluded in committee when the government agreed that it was constitutional.

With respect to the constitutionality of this bill, that is still a question I would have to satisfy the committee of, and I am prepared to do that. I hope to respond more fulsomely to the senator's comments in conclusion of this debate.

I want to thank the honourable senator again. He made a very thoughtful effort, an effort that has added to the importance of this debate. I congratulate him on his thorough research.

[Translation]

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I realize that the time allocated for questions is drawing to an end. However, I have a few comments.

First, I would like to thank Senator Nolin for having raised these important points. We will certainly want to examine the constitutionality of the differences between Bill S-205 and Bill S-208. It would also be desirable to consider the point raised by Senator Nolin that a law already exists. According to the motion, we would be requiring the Minister of the Environment to impose another agency on the provinces. We should perhaps give the federal minister more latitude and flexibility so that he may have discussions with his provincial counterparts before imposing this type of measure.

I have other comments to make. Therefore, I wish to move adjournment of the debate for the time remaining to me.

**The Hon. the Speaker:** I seem to recall that the honourable senator has spoken to this bill a few times. Is the adjournment for the time remaining to him?

**Senator Comeau:** Honourable senators, I wish to move adjournment of the debate for the time remaining to me.



**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

On motion of Senator Comeau, debate adjourned.

[English]

## KYOTO PROTOCOL IMPLEMENTATION BILL

### THIRD READING—MOTIONS IN AMENDMENT AND SUBAMENDMENT—DEBATE CONTINUED— VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Trenholme Counsell, for the third reading of Bill C-288, An Act to ensure Canada meets its global climate change obligations under the Kyoto Protocol;

And on the motion in amendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Angus, that Bill C-288 be not now read a third time but that it be amended:

(a) in clause 3, on page 3, by replacing line 19 with the following:

“Canada makes all reasonable efforts to take effective and timely action to meet”;

(b) in clause 5,

(i) on page 4,

(A) by replacing line 2 with the following:

“to ensure that Canada makes all reasonable efforts to meet its obligations”,

(B) by replacing line 6 with the following:

“ance standards for vehicle emissions that meet or exceed international best practices for any prescribed class of motor vehicle for any year,” and

(C) by adding after line 13 the following:

“(iii.2) the recognition of early action to reduce greenhouse gas emissions, and”,

(ii) on page 5,

(A) by replacing line 9 with the following:

“(a) within 10 days after the expiry of each”,

(B) by replacing line 23 with the following:

“first 15 days on which that House is sitting”, and

(C) by replacing lines 26 and 27 with the following:

“each House of Parliament is deemed to be referred to the standing committee of the Senate and the House of Commons that”;

(c) in clause 6, on page 6, by adding after line 29 the following:

“(3) For the purposes of this Act, the Governor-in-Council may make regulations restricting emissions by “large industrial emitters”, persons that the Governor-in-Council considers are particularly responsible for a large portion of Canada’s greenhouse gas emissions, namely,

(a) persons that are part of the electricity generation sector, including persons that use fossil fuels to produce electricity;

(b) persons that are part of the upstream oil and gas sector, including persons that produce and transport fossil fuels but excluding petroleum refiners and distributors of natural gas to end users; and

(c) persons that are part of energy-intensive industries, including persons that use energy derived from fossil fuels, petroleum refiners and distributors of natural gas to end users.”;

(d) in clause 7,

(i) on page 6,

(A) by replacing line 32 with the following:

“that Canada makes all reasonable attempts to meet its obligations under”, and

(B) by replacing line 38 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 7, by replacing line 4 with the following:

“(3) In ensuring that Canada makes all reasonable attempts to meet its”;

(e) in clause 9,

(i) on page 7, by replacing line 33 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 8,

(A) by replacing line 3 with the following:

“Minister considers appropriate within 30 days”, and

(B) by replacing line 7 with the following:

“(1) or on any of the first fifteen days on which”;

(f) in clause 10,

(i) on page 8,

(A) by replacing line 9 with the following:

“10. (1) Within 180 days after the Minister”,

(B) by replacing line 11 with the following:

“tion 5(3), or within 90 days after the Minister”, and

(C) by replacing line 38 with the following:

“(a) within 15 days after receiving the”, and

(ii) on page 9,

(A) by replacing line 6 with the following:

“Houses on any of the first 15 days on”, and

(B) by replacing line 9 with the following

“(b) within 30 days after receiving the advice.”;

(g) in clause 10.1, on page 9,

(i) by replacing line 17 with the following:

“and Sustainable Development may prepare a”,

(ii) by replacing line 32 with the following:

“report to the Speakers of the Senate and the House of Commons”, and

(iii) by replacing lines 34 and 35 with the following:

“Speakers shall table the report in their respective Houses on any of the first 15 days on which that House”.

**Hon. Lowell Murray:** Honourable senators, I have made no secret of the fact that I want to amend this bill, and I will try to do so when I am able procedurally to do so. I have signalled to honourable senators on both sides during informal encounters that my amendment would be a simple one-sentence amendment that would add a coming-into-force provision to Bill C-288.

My amendment, when I move it, would provide that the act would come into force at a time to be determined by the Governor-in-Council. That addresses the problem that I have raised about the very bad precedent created by the bill in terms of our system of parliamentary responsible government.

Meanwhile, I should signal to Senator Tkachuk, if I have not already done so, that it is my intention to vote against his amendments, as I voted against those of Senator Cochrane last night. It may be that those amendments would go some way to

attenuating the impact of the precedent on our system of parliamentary responsible government, but my preference would be to leave the bill intact and to put a coming-into-force provision that would leave the proclamation of the bill to the discretion of this government, or the successor government, if it is one of another political stripe.

Meanwhile, I want to take a very few minutes of honourable senators' time today, because I have not really addressed the substantive issues that the bill purports to deal with, that is to say, the Kyoto Protocol. I do not intend to do so at any length today.

However, before Elizabeth May comes gunning for me, I should state for the record that I have never had any reason to doubt the science, including the evidence of how human activity contributes to the phenomenon of climate change and global warming. That phenomenon to me is obvious enough.

Prime Minister Chrétien signed the Kyoto Protocol in 1998 almost on impulse.

• (1520)

There was no planning and no plan for its implementation before or since. Mr. Goldenberg's defence is that signing it served a greater purpose: to “galvanize public opinion.” Perhaps it did and, if it did, God bless them. To me, galvanizing public opinion is not sufficient justification for any government to sign a treaty or protocol committing Canada to objectives that could be achieved only by extraordinary measures involving concerted federal-provincial-municipal, public-private agreement, collaboration and action. There was none of that and I have seen little of it since.

I know there are cosmetic references in Bill C-288 to, “cooperative measures” with the provinces and territories, and a further reference in the bill to “respect” for “provincial jurisdiction.” However, I must say that in my opinion Prime Minister Chrétien signed and committed Canada to Kyoto as if the “environment” was the exclusive responsibility of the federal government and Parliament, and as if we could, on our own, achieve its objectives.

I explained my reservations about all this five or six years ago when the aforementioned Elizabeth May and a delegation of environmentalists came calling on me and some of our colleagues about Kyoto. One member of the delegation of environmentalists impatiently brushed off my criticism. His view, although he did not state it in so many words, was simply that Ottawa is the national government and that Ottawa should bring down the hammer on the other parties in our federation and in our economy.

Let me say that it is the besetting sin of some social and environmental activists and advocates in this country to believe that the federal government, by fiat, can solve any problem, and compel the collaboration of other governments and of citizens generally. It cannot be done. It cannot be done even when we would like to do it. It cannot be done even when we are acting in a field of our own exclusive jurisdiction. We need other actors in government and the private sector by way of a national effort.

In the 1980s, the Mulroney government had no doubt as to our constitutional authority to negotiate a free trade agreement with the United States. When that authority seemed in question, Prime



Minister Mulroney bluntly affirmed our federal authority at a televised first ministers' meeting in Toronto in 1987.

At the same time, however, while we never accepted any challenge to our constitutional authority, we recognize that a free trade agreement that did not have the close collaboration of the provinces and the private sector, while not a dead letter — I would not go that far — would at least be uncertain, perhaps even chaotic, in its implementation.

Throughout the negotiations, we held 11 first ministers' meetings presided over by the Prime Minister to discuss the issues and receive reports from our negotiators who had been conducting the negotiations with the United States. There were meetings of federal and provincial trade ministers and numerous meetings of federal and provincial trade officials. My recollection is there were conference calls with the provinces after every negotiating session with the U.S., and sectoral advisory committees were set up representing all the main sectors of the Canadian economy that would be affected by the free trade agreement.

At the end, our largest province, Ontario, and our smallest province, Prince Edward Island, opposed what we had done. However, I never heard either Premier Peterson or the late Premier Ghiz protest or complain that there had been any lack of consultation, nor did I hear people in various parts of the economy who had reservations or who were downright opposed to the free trade agreement complain that there had been inadequate consultation. Never did any of them, in either of those provinces or in the private sector, try to frustrate or impede the trade and commercial regime established by the free trade agreement, as they might have done.

Another example is the Canada-U.S. acid rain agreement, an environmental matter. That is understandably thought of as something of an achievement in international relations and in environmental matters. Senator St. Germain properly brings up the name of the former Member of Parliament from Parry Sound—Muskoka, Stan Darling. I used to say that Mr. Mulroney's feet were put to the fire by Mr. Darling and that he found it much easier to confront George Bush and the U.S. administration than he did to confront Mr. Darling in the Progressive Conservative caucus.

It is thought of as a good environmental agreement between Canada and the United States, but it is also, I think we can say, a modest achievement in federal-provincial relations. We needed to bring provinces on board with acid rain objectives. I still have notes somewhere in my files from the former environment minister, The Honourable Tom MacMillan, complaining that certain provinces were trying to hold the acid rain issue hostage to other unrelated considerations that they were trying to obtain from the federal government.

**Senator Comeau:** Sounds familiar.

**Senator Murray:** It was ever thus and it is never easy, but it was done.

What happened with the Kyoto accord reminds me of Winston Churchill's boast later in life that as colonial secretary in the early part of the 20th century, he had created the Kingdom of

Transjordan "with the stroke of a pen one Sunday afternoon in Cairo." We know how that turned out. It seems to me that is what happened when Prime Minister Chrétien signed the Kyoto accord.

I know it is a common enough vanity among ex-ministers and ex-political advisers, strategists and whatnot to believe that things were always done better in their day. I do not want to pretend that the process that was followed in the free trade agreement or even with the acid rain agreement to be replicated entirely with regard to Kyoto. However, the Winston Churchill notion of doing things with the stroke of a pen is counter-productive. It may well be that Mr. Chrétien's signature on that accord and the subsequent debate has helped to galvanize public opinion, which is fine. What it did not do was galvanize the principal actors in the public and private sectors in this country to ensure the successful implementation of Kyoto. That criticism is serious, and I believe it is at the origin of many problems we face with this debate.

• (1530)

Honourable senators, thus endeth my lesson for the moment. I will move my coming-into-force amendment as soon as the way is clear for me to do so.

**Hon. Gerry St. Germain:** Honourable senators, I am pleased to enter the debate on the proposed amendment to Bill C-288. At the outset, I will stress that our nation deserves something that the Liberals failed to deliver and that this bill fails to provide as drafted, that is, a credible and realistic plan on this issue of climate change.

Canadians do not want, and Canada cannot have, a government or a Minister of the Environment who promises action and then fails to deliver. Canadians expect their governments to keep their word. Canadians expect their governments to competently build a plan and administer this plan in the best interests of all Canadians, not only for today but for the future benefit of our children.

The present government's climate change action plan, Turning the Corner, will deliver this. The plan targets four areas of concern: industrial emissions, transportation, consumer and commercial products, and indoor air quality.

On the first item of industrial air emissions, the action plan will outline how the Government of Canada will move forward on three fronts: a regulatory framework for greenhouse gas emissions; a regulatory framework for air pollutants; and issues of compliance, penalties and enforcement.

Second, in the area of transportation, the plan proposes initiatives to reduce air emissions from motor vehicles, rail, marine, aviation, and on-road and off-road vehicles and engines.

On the third front, consumer and commercial products, the government is developing and will implement regulations to strengthen required energy performance standards for various products.

On the fourth and final front, Turning the Corner proposes to develop measures for improving indoor air quality.

The plan goes beyond Kyoto to propose measures to address not just CO<sub>2</sub> emissions but also very harmful pollutant emissions like nitrogen oxides, sulphur oxides, volatile organic compounds and particulate matter. Frankly, honourable senators, these other toxic pollutants are the cause of serious health conditions and are attributable to the death of Canadians each year. Unfortunately, I have witnessed this in the east end of the Fraser Valley in British Columbia. Left unchecked, the situation will only get worse.

Our plan proposes to stop the growth in greenhouse gases by 2010 to 2012; to cut them by 20 per cent, or 150 megatons, by 2020; and to cut them by up to 70 per cent by 2050.

With respect to air pollutant emissions that cause smog and acid rain, Turning the Corner proposes to cut emissions by up to 55 per cent as early as 2012 compared to 2006 levels.

I believe our plan is attainable. It is a job we can get done. We are committed to actively participating in the United Nations' process on climate change as well.

However, it would be irresponsible to pretend that we could meet our emission reduction target of 6 per cent below 1990 levels by 2008-2012 without imposing punitive costs on Canadians. Canada cannot reach its target within the specified time frame, and Canada cannot do in eight months what would have taken 15 years to complete. To instantly undo years of Liberal inaction would lead to a deep recession, major job losses and a significant decline in incomes for Canadians.

Honourable senators, let us face the facts. The Liberals in office were unable to develop a pragmatic, credible approach to climate change that meets the economic and political realities of our nation. Instead, they embraced the symbolism of Kyoto while doing nothing to achieve the goals and requirements of Kyoto. The Liberals see Kyoto not as an environmental goal but as a political tool that can be used as long as the electorate is not exposed to the costs.

Canadians expect their governments to tell them the truth. If you do not believe me, consider the public outrage whenever gasoline prices spike, as they did in the middle of last month.

A few years ago, on the March 25, 2005, edition of CTV *Question Period*, a real gentleman and a great senator in this place, Senator Munson, said — and I quote:

So when it comes to the Kyoto plan, whatever works itself out. If you want to tax me today for the future, go ahead and tax me. I'll buy into it.

Curiously, the official opposition in the other place now does not buy into it, demanding in Question Period that the government do something about high gas prices. Are you ready to pay \$1.70 or so at the pump? If not, then you are not ready to buy into Kyoto.

To listen to another distinguished senator of this place, my good colleague Senator Mitchell, meeting our Kyoto commitments is easy. Just buy carbon credits from Europe, which at the moment are available at a discount, thanks to the fact that no one wants them. Honourable senators, create a demand, and those credits will not be cheap for very long. To

Senator Mitchell, I pose a simple question: If it were as easy as he says, why did the Liberal government not get the job done? Why, as Minister of the Environment, did Stéphane Dion not propose his own version of Bill C-288?

Honourable senators, according to the *Hill Times* of November 27, 2006 — a great publication, one that only features great senators, like Senator Mitchell and others — Senator Mitchell supported Mr. Ignatieff for the Liberal leadership. I am not questioning the honourable senator's judgment on that. I have to wonder, though: When the leadership debate shifted to the environment, did Senator Mitchell say, "Right on" when Mr. Ignatieff said, "We didn't get it done," or did he identify with his new leader as he stated, "This is unfair"? Did he agree with his new leader when he said, "You don't know what you speak about. Do you think it's easy to make priorities?"

Does the honourable senator seriously think that Bill C-288 would have had a prayer of getting out of the other place if the Liberals were in office?

**Senator Mitchell:** Yes.

**Senator St. Germain:** Or does Senator Mitchell seriously think that, if the Liberals were to form a government, Stéphane "didn't-get-it-done" Dion would not immediately seek changes to this law?

Honourable senators, the amendment before us will help to fix a badly written bill. Nothing is perfect. In spite of the greatness of this Albertan, nothing is perfect. However, I believe it may be helpful if we focus our attention on one aspect of the amendment.

**Senator Cowan:** Let us have a vote! Right now!

**Senator St. Germain:** Do honourable senators want a vote? Right now.

While I certainly agree with and support the overall purpose and effect of the amendment, I do have one small concern, namely, that the change to clause 5(a)(i) on page 4 will narrow its scope, limiting it to automobiles. I therefore propose that that portion of the amendment be deleted to retain the somewhat more expansive wording of the bill as it now stands, and I welcome discussion on whether this is appropriate or not.

#### MOTION IN SUBAMENDMENT

**Hon. Gerry St. Germain:** Accordingly, I move:

That the motion in amendment be amended by deleting amendment b(i)(B) and re-lettering amendment b(i)(C) as amendment b(i)(B).

**Senator Mitchell:** Question!

• (1540)

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Yes.



Some Hon. Senators: No.

**The Hon. the Speaker:** All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

**The Hon. the Speaker:** All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

**The Hon. the Speaker:** In my opinion, the nays have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** Call in the senators. Order!

**Hon. Terry Stratton:** Honourable senators, I wish to refer you to rules 67(1), 67(2) and, in particular, 67(3), which I shall read into the record:

67(3) When a standing vote has been deferred, pursuant to section (1) above, on a Thursday and the next day the Senate sits is a Friday, the Chief Government Whip may, from his or her place in the Senate at any time before the time for the taking of the deferred vote, again defer the vote until 5:30 o'clock p.m. on the next day thereafter the Senate sits.

As we have not received notice of sitting tomorrow, I would offer that the vote will take place on Tuesday at 5:30.

**The Hon. the Speaker:** Honourable senators, the chief government whip has deferred the vote until tomorrow and has further deferred the vote until the first sitting day after tomorrow.

[Translation]

**Hon. Fernand Robichaud:** Honourable senators, I am wondering if we can defer a vote on adjournment of the debate. We can defer a vote on the main issue, adopting the motion, but is it possible to defer the vote on adjournment of a debate?

**The Hon. the Speaker:** The question is on the subamendment.

[English]

**Hon. Sharon Carstairs:** It would appear to me, Your Honour, that we have not yet determined whether we are sitting tomorrow. How can we defer a vote scheduled for tomorrow when we have not determined yet whether we are sitting tomorrow?

**The Hon. the Speaker:** Honourable senators, the rule is very clear. The chief government whip, on a Thursday, is able to defer the vote until tomorrow. The rules then provide that the chief government whip may defer the vote that would be ordered for tomorrow further to the next day that the Senate sits after tomorrow, whatever day that will be. Senator Carstairs is correct; we will only know what that "next day after tomorrow" will be when we hear the adjournment motion.

**Senator Fraser:** Let's do it Monday. Monday sounds good.

## QUESTION OF PRIVILEGE

### MOTION TO REFER TO STANDING COMMITTEE ON RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Tkachuk, seconded by the Honourable Senator Angus:

That all matters relating to this question of privilege, including the issues raised by the timing and process of the May 15, 2007 meeting of the Standing Senate Committee on Energy, the Environment and Natural Resources and their effect on the rights and privileges of Senators, be referred to the Standing Committee on Rules, Procedures and the Rights of Parliament for investigation and report; and

That the Committee consider both the written and oral record of the proceedings.—(*Honourable Senator Tardif*)

**Hon. Tommy Banks:** Honourable senators, on the question of privilege, I rise in effect to defend myself and to speak on this motion. I oppose this motion. I shall speak against the motion and, when the opportunity is given, I shall vote against it.

I regret that, as I stand to defend myself against accusations that have been made against me, some of my accusers from among us are not at the moment in the chamber. I wish very much that they were.

Speaking to the question before us and referring to His Honour's ruling on the question, for which I thank His Honour, I want to remind us that His Honour found and was careful to point out that there was not a specific finding of abridgement of privileges and that it was for the Senate to determine whether there was such a thing. I presume that we are now doing that.

His Honour was also careful to point out that the proceedings of one of the meetings in question, that is to say, Tuesday, May 15, were in order, according to the rules of the Senate. Therefore, the determination that was made in that meeting was in order and the reporting by the committee of the bill to the Senate was in order. It follows that the motion for third reading was in order, that the debate that then ensued was in order and that the introduction of amendments were in order.

Honourable senators, I am pleased that Senator Tkachuk is now here. Thank you.

These things are in order and we are now talking strictly about the question of whether senators' privileges have been intruded upon. In that respect — and it is perhaps merely naivety — I must say that senators opposite are possessed of selective compunction. When extraordinary procedural niceties were used in this place, entirely within the *Rules of the Senate*, to stop the progress of a bill and, in fact, to stop a Senate committee from meeting at its appointed time, there was no such compunction. However, when I — and it is I, we must be clear — used procedural niceties in the committee to ensure that there would be forward progress of the bill, there is cry of havoc. In my thinking, that selectivity is out of order — and I do not mean that in the literal sense; I mean that I think that selectivity is questionable.

Honourable senators, every senator here knows — and I have said this before — that, if the matters in this place had proceeded normally on that day according to the normal practice and according to the rules, proceedings in the other place would have proceeded normally that day. The fact that they did not begin here, not there.

With respect to the timing of the events, I want to say, as I have said before, that there are clocks and there are clocks and there are clocks. However, it has been suggested by some of our colleagues in national radio programs and in articles in newspapers that members of the Standing Senate Committee on Energy, the Environment and Natural Resources were waiting already in the committee room to begin the meeting. That is patently not so. That fact is well known to both Senator Di Nino and Senator LeBreton. All the members of that committee who were members of the Liberal Party — I cannot speak for members of the committee who were not members of the Liberal Party — were standing in the lobby of the Senate. Senator LeBreton and Senator Di Nino know that because they both walked among us more than twice during the course of proceedings in this place. It has been further suggested that those committee members ran to room 257 in the East Block in order to begin the meeting.

Honourable senators, I do not run. I am not a runner.

• (1550)

My doctor said to me, “Banks, you have to get more exercise,” but he said, “Do not run.” I always take his advice, so I did not run to that meeting.

In respect of the 49 seconds, which some of our colleagues said on the radio and to newspaper reporters was the length of time the meeting lasted, it is a physical impossibility, honourable senators. No one in this place, least of all me, is able to convene a meeting and ask the 21 questions and hear the responses that occurred in that meeting in 49 seconds. It did not happen. It is not physically possible. The actual time it took to ask those questions was about three minutes.

I note, honourable senators, in respect to the time of that meeting and the time it began, that yesterday the Senate adjourned at 4 p.m., and a meeting of a Senate committee in a different building from this one — the Victoria Building — began, according to the record, at 4 p.m., immediately when the hammer dropped. If that is so, and if this is a point of privilege, then it must be true that members of this place who were here doing their duty in the chamber and who might be members of that committee were disallowed their privilege in getting there, because the meeting started, according to the record — according to the clocks in those places — at exactly the instant that the Senate adjourned yesterday.

I do not presume to say that those members of that committee had their privilege abridged yesterday.

It has been suggested in speeches in connection with this motion that I acted arbitrarily and improperly on that day, and that I was the one responsible. I do not believe that I acted arbitrarily and improperly. However, it has also been suggested by Senator

Angus, and repeated again yesterday by Senator Di Nino, that I “banded about” in this place the names of members of senators’ staffs.

Honourable senators, Senator Angus stood in his place and accused me of wrongdoing, of impropriety and of arbitrary action that was a breach of his privilege, without compunction. Yet, offence is taken when I stand to defend myself against such an accusation. I read into the record, and will again, if asked, irrefutable proof that those charges are not true and that the proceedings of this committee were undertaken with the unanimous consent of the steering committee of that committee, and in some cases by the committee itself. The proceedings were entirely in order in every respect, including the number of meetings that were held, which is eight, and the number of witnesses that were called, which is 18, all approved and agreed to unanimously by the steering committee. I will read those things again, including the responses of the members of the steering committee and of other members of the committee to notices and requests that I had sent, and that the clerk had sent, to confirm these proceedings, the number of meetings, the subject matter of those meetings and the witnesses who would be heard at those meetings.

When I am accused of not having acted properly, it is inappropriate that I be accused of bandying things about in this place — I do not think it is bandying things about — when I refute those allegations. I think it is bandying things about to use false numbers and accusations such as “49 seconds” and “ran.” That is bandying about, but we did not do that in this place. None of us did.

In short, I do not agree that there has been a breach of privilege of senators. If there was one on Tuesday, May 15, then there was one yesterday in a committee that I will not name, which began its proceedings at precisely four o’clock, according to the measurements and according to the record, when members of that committee were sitting in this place. If one is true, then so is the other.

I, therefore, argue that there is no question of privilege. There has been no breach of privilege. I urge all senators to vote against the present motion.

**Some Hon. Senators:** Hear, hear!

**Hon. Terry Stratton:** I have a simple question. When the honourable senator did clause-by-clause consideration of the Kyoto bill on that day, May 15, were any Conservative senators present?

**Senator Banks:** No.

**Senator Stratton:** This so called clause-by-clause consideration. Yesterday, the chamber was suspended to allow committees to meet until the vote at 5:30. Was there a committee that did clause-by-clause consideration precisely at four o’clock yesterday?

**Senator Banks:** I do not know what the subject matter was of the committee meetings yesterday.

**Senator Stratton:** When we talk about privilege here, we are talking about privilege with respect to the right to vote on clause-by-clause consideration. There is a vast difference between



meetings at four o'clock on a suspended sitting that does not have a meeting concerning clause-by-clause consideration on a bill, and what happened on May 15.

**Senator Banks:** I am not sure if that was a question, but if it was, the subject matter of the present motion does not relate only to questions of voting. It also relates to questions of having taken part in debate. The answer is, that debate could have taken place yesterday before any member of this place who was present here could possibly have gotten to the committee meeting that began at four o'clock.

**Hon. Consiglio Di Nino:** Since the honourable senator referred to my having seen him and other members of the Liberal caucus outside, I should clarify by way of a question that the one time that I went outside, for a specific reason — I cannot remember exactly the reason and I do not want to guess — it was a number of minutes before His Honour adjourned the proceedings, if that is the right term, for lack of quorum. I agree with the honourable senator. I saw the honourable senator and a number of other colleagues. As a matter of fact, I probably said hello to the honourable senator, as I usually do, because I consider him a friend. However, it was certainly not at the moment that the Senate was adjourned. It was three or five minutes, something of that nature, before that. Am I correct?

**Senator Banks:** That is correct. It certainly was not at the instant the Senate adjourned, but I will tell the honourable senator, and I hope he will believe me, that I and other members of the committee who are Liberals were standing there until the Senate adjourned, and it is that reference. The honourable senator is right. He did not see any of us at the instant that happened.

**Senator Di Nino:** What I was disturbed about concerning the events that took place that evening was that this action took place when we all know that the honourable senator's side has at least twice as many members on the committee as the government side has. Could the honourable senator not have accomplished exactly the same thing by waiting a couple of minutes and still achieve the clause-by-clause results that he wanted by the mere fact that his numbers were eight to four, at worst?

**Senator Banks:** Perhaps: I have no idea of what other members of the committee, both Conservatives and independents, who were not there might have entered into by way of discussion, debate or amendment.

**The Hon. the Speaker:** I am sorry to interrupt, but I must advise the house that Senator Banks' 15 minutes have elapsed.

**Hon. Anne C. Cools:** Honourable senators, I wish to join this debate on Senator Tkachuk's motion. I want to begin by stating strongly that it is my intention to vote no and against when this thing comes to a vote. I sincerely believe that there is no breach of privilege here.

Honourable senators, I would like to begin with a point —

**Senator Stratton:** Just like a puppy dog.

**Senator Cools:** Who is a puppy dog? I assure you that if I am a puppy dog, I am a German shepherd. I owned a German shepherd when I was a young girl. My mother loved German shepherds, and I love them too.

• (1600)

I want to begin briefly on the point upon which I began last time when I articulated one of the fundamental principles of the law and one of the fundamental principles of equity. I want to repeat this because, for many in today's community, the notion of the principles of equity in the law has been lost. In courts of equity, the Lord Chancellor's courts called the Courts of Chancery or the Courts of Equity, a fundamental principle is that any plaintiff or any person seeking redress or remedy must come with clean hands.

When I rose earlier, whenever it was we spoke, I said Senator Tkachuk did not come to this high court of Parliament with clean hands. Honourable senators, I reiterate that point. Senator Tkachuk was a leader in a war strategy that failed. He was an officer and a commander in a strategy that failed. That failure having happened, or run aground, as I prefer to say, I do not think there is a breach of privilege and that he should go around and cry foul. There is something about this warfare. I do not like that sort of thing.

This court should not suffer gladly the kind of mischief that has been put before us today. I said before that a violation of a privilege is a very serious thing. Honourable senators, we all work in this place, and we have all had to leave here when the Senate has risen. Most of the time, by the time one gets to committee, that committee is well in motion and, quite often, down the road. Chairmen of committees are already there with witnesses lined up. I have seen many chairmen leave the Senate sitting in order to begin committee meetings as soon as the bells ring, the moment the Senate rises. I have not complained about that. If such a complaint were to be brought here, that there was insufficient time, then that complaint should not take the bitter song that this complaint has taken, and neither should it be as personal. I view much of what has been said as a personal attack on Senator Banks. I have a difficult time with that.

Honourable senators know me, and when Mr. Mulroney was under attack some years ago from certain ministers, I rose in this place and condemned that attack. I do not have to be a friend of anyone to be able to say that we must be fair and even-handed and balanced, especially when accusations are being made. I was raised with the common law, and I have a common law cast of mind. That is my natural instinct.

This motion does a few things, but it does not do even many more things. It does not address any of the problems that all of the speakers on this side of the house raised. That is very important. For example, if we were to look to the concluding words of Senator Tkachuk's first complaint raised on May 17, 2007, he said:

What I am seeking is a genuine remedy that the Senate has the power to provide. I am raising it because I believe that the actions of the chair of the Standing Senate Committee on Energy, the Environment and Natural Resources constitute a grave and serious breach that I believe needs to be corrected.

Honourable senators, there is nothing in what this motion states that asks the Senate to correct anything whatsoever about what Senator Banks is supposed to have done. Let us understand very clearly, honourable senators. Senator Tkachuk's motion

does not ask the Senate to find that there is a breach of privilege, which is the first thing it should be asking. It does not ask the Senate to find a breach of privilege. Neither, honourable senators, does it ask the Senate to provide a remedy. It does not propose a remedy. All it says is to refer everything and all matters sundry to the committee, but it does not ask the Senate to make a finding or to find a remedy. Finally, it does not ask the Senate to do anything about the conduct of anyone at the committee. I would say that this motion has no relationship whatsoever to anything that has been raised in the debates.

My conclusion is that there is another mischief at work. Motions cannot have ulterior motives, but it has a secondary purpose, and its secondary purpose has to be to seek to ask the Standing Committee on Rules, Procedures and the Rights of Parliament to nullify the proceedings of another committee, being the committee that Senator Banks chairs. Honourable senators, that is out of order and very improper. A motion should be very clear as to the decision it is asking the Senate to make. This one is not, and that is why I will vote against it.

Honourable senators, in my view, the claim that Senator Banks committed wrong or did wrong is a frivolous one, so I would like that dismissed immediately. The claim that privileges have been breached is not a credible one. No evidence has been put before the Senate whatsoever that anything has happened that Senator Banks did anything wrong. There are only allegations that have been made. We are really dealing with, as I said earlier, not a breach of privilege, just some breached egos. I do not think damaged egos are a good reason to occupy the attention of the Senate.

Having said that, honourable senators, I would close on the final point, which is that it is a very serious matter for any senator to seek to have the proceedings of a committee meeting nullified or voided. It is an extremely serious matter. It can be done; it is within reach. However, my understanding is that were such a request to be put before the Senate, this house is the only body that can, in point of fact, oust the conclusions of another committee or nullify its proceedings. When a request is put, that request should be clearly put before the house, before this Senate. There should be no doubt and it should not be ambiguous. It should be very clear and unambiguous as to what the house is being asked to do.

• (1610)

Therefore, honourable senators, know that I am among all here the fastest to get to my feet to defend other senators on questions of privilege, but in this instance I am voting against this motion. I am voting in support of Senator Banks. I do not like the fact that this question of privilege has been used as an opportunity to malign or smear. That has bothered me very deeply. I can disagree with you and think that you are a lousy chairman. I can think you do not know how to handle a meeting. All of that is many things, but it is not a breach of privilege.

I should like to say that I shall be voting against this motion, which is so poorly drafted as to be defective and flawed. If it were not a question of privilege and if the debate had not developed in the way it has, I would have raised a point of order trying to show why this motion was so deeply flawed and so deeply defective.

I suppose the same purpose can be achieved in a way by just voting in the negative in the hopes that other senators will see it the same way and will negative the entire experience. Perhaps one or two apologies can be expressed. Perhaps one or two individuals can say they are sorry or admit that maybe they went too far.

A couple of months back, the CBC invited me to take part in a series they are doing called "This I Believe. They chose 40 Canadians to write personal essays beginning with the words "This I believe." It was a personal essay about how one approaches life. Mine was broadcast yesterday. I had forgotten about it actually. At the end of my essay, I said that I believe in the power of love and in the power of forgiveness and that the power of love is a mighty power and a very healing one. It can work wonders between individuals as well as between nations.

Honourable senators, I should like us to bring this motion to a vote and defeat it, so that we can put it behind us so that perhaps some healing can begin. I have no doubt that Senator Banks has been deeply hurt and bruised by this. I am also extremely sympathetic to Senator Tkachuk that he arrived at the committee to find that it was over. I was very prepared at first to support a rule or a motion that would state that when we adjourn in the future, when the Senate rises, that perhaps senators would have 15 minutes to get to the committee meeting. Unfortunately, Senator Tkachuk has not put that before us for our consideration, so I do not have to deal with that, but I would still support it.

Having said all that, I wish to thank you so much. This I believe; I just remembered.

**Hon. Lowell Murray:** Honourable senators, I am not a member of the Standing Senate Committee on Energy, the Environment and Natural Resources. I was not even in my seat on the day that the quorum call came; perhaps if I had been, the quorum call would not have been necessary. Therefore, I have no direct knowledge of the facts in this case and I had resolved not to intervene.

However, what got my attention was the statement by Senator Cools and by Senator Banks, whose speeches I followed carefully, that they intend to vote against this motion.

I want to contribute to the debate the fact that, first, a question of privilege having been raised by a senator and the chair having found that there is a *prima facie* case, it is almost unprecedented for us to refuse the remedy, which is to send the matter to committee. I wish to draw honourable senators' attention a not dissimilar case that occurred in the presence of Senator Banks, I think, and certainly of Senator Cools, in 1999.

On June 9, 1999, I and a group of other senators were in the Victoria Building when we heard the bells ringing for a vote. We rushed, to the extent that we are capable of rushing, downstairs and took the bus over here, only to discover that the whips, by agreement, had determined upon a five-minute bell. The group of us were too late for the vote.

The next day, I raised a question of privilege on the matter, on behalf of myself and my colleagues. I did not assert that what the whips had done was against the rules; unfortunately, it was within the rules. I did, however, say that I thought our privileges had been abridged.



It was the next day that I raised the question of privilege and Mr. Speaker Molgat ruled at once that there was a *prima facie* case in terms virtually identical to those used by Mr. Speaker Kinsella in the present case. I think Mr. Speaker Molgat said, certainly Mr. Speaker Kinsella said, that there had been no breach of the rules, however, there was, in the facts that I had presented, a *prima facie* case of privilege and that I had already indicated what my remedy would be. Therefore, I had moved, in the following terms, that the issue of the rights of all senators to be able to participate in standing votes in the Senate that have been requested in accordance with rule 65(3), and the procedures followed on June 9, 1999, regarding the vote to adjourn the debate on the eleventh report of the Privileges, Standing Rules and Orders Committee, be referred to the Standing Senate Committee on Privileges, Standing Rules and Orders.

I believe there was no further debate at the time, and my motion was passed on the nod by all honourable senators. I have the transcript of the subsequent meeting, on June 16, of the Standing Senate Committee on Privileges, Standing Rules and Orders. I do not think it is germane at the moment. My contention was that while a rule had not been broken the privilege had been breached. I felt then that the remedy was in a change in the rules, which is why I wanted it sent to the Rules Committee.

I do not think Senator Tkachuk argues that a rule has been broken. Even if he does, Your Honour has stated that on the facts that have been presented to the chair, the chair found that a rule had not been broken. However, Mr. Speaker Kinsella found a *prima facie* case of privilege. Senator Tkachuk availed himself of the remedy and made a motion that I think is not that much different. I am quite prepared to be persuaded otherwise, but I do not think it is that much different from the motion I made in 1999.

Therefore, as I say, it is almost without precedent in my memory for the chamber to decide not to let an honourable senator avail himself of the remedy, which is to have a reference to a committee of a *prima facie* question of privilege.

**Senator Banks:** I shall try to frame my explanation as a question. The question will be, however you want to take it, I relied in my argument on matters from His Honour, which I will quote.

First, I must say parenthetically that I did not have the advantage of being here in 1999. I came here on April 7, 2000. I was unaware of the previous case.

• (1620)

His Honour stated in the penultimate paragraph of the ruling:

I reiterate that this decision on the *prima facie* aspect of the question of privilege is not a definitive resolution of the issue. This ruling does not establish that Senator Tkachuk's privileges were breached, nor does it conclude that any action must be taken on the matter. That is a decision for the Senate.

Senator Tkachuk now has an opportunity, under rule 44(1), to move a motion either calling on the Senate to take some action or referring the matter to the Rules Committee.

I took it from that that it was appropriate that this matter could be dealt with either in the Rules Committee or in the Senate, which is what I think we are now trying to do. Does the honourable senator understand what I just said?

**Senator Murray:** Yes, I do. I do not have the ruling of His Honour before me. However, as I said, the ruling that our late friend Speaker Molgat made is almost identical to that which Speaker Kinsella made. Speaker Molgat said:

Our rules are very clear on this point. Insofar as whether or not there is a *prima facie* case, the conditions are outlined in 43(1)(a), (b), (c) and (d).

It must be raised at the earliest opportunity: It has been. It must be a matter directly concerning the privileges of the Senate, of any committee thereof, or of any senator. It is obviously one that concerns the privileges, the right to vote, of not only the one senator who has raised it but others who have spoken.

It must be raised to seek a genuine remedy which is in the Senate's power to provide, and for which no other parliamentary process is reasonably available. That has been done, because Senator Murray told us in his oral statement that he was providing a remedy.

The remedy was my motion to refer to the committee.

I do not know what more I can say. That was the process then. I must say, I took it for granted. I was not taking much interest in all of this. When the Speaker brought in his ruling, I just assumed that a motion by Senator Tkachuk or someone to refer the matter to committee would be passed on the nod. Obviously it has not been.

**Senator Cools:** Honourable senators, I wish to ask Senator Murray a question. I took part in that debate and, if he will recall, I supported the honourable senator and said that his cause was just.

Would Senator Murray not agree, or can he not see that the difference between his motion and Senator Tkachuk's motion are like night and day? That is my first question.

Second, the issues that Senator Murray raised were not personal or tied to the individual chairman or anything like that. The issues as he raised them were essentially saying that this particular rule should be looked at to be able to allow a bit more time for senators to get to the house. I submit perhaps that is the reason it carried so quickly.

If Senator Murray looked at the debate, it did not ask or suggest to the Senate, for example, that all the proceedings that have taken place that the honourable senator missed would be voided or nullified. Therefore, he stayed within the extreme narrow framework of the issue that he had raised, which is the fact that a five-minute bell was simply too short and the rules should look at that.

I made it my business to reread the Speaker's ruling, the debates and to compare the two motions. I assure Senator Murray that had Senator Tkachuk followed his example, I would be voting with him exactly as I did with Senator Tkachuk.

**Senator Murray:** I appreciate the intervention of the honourable senator.

Someone will have to explain to me how the motion that I made and that was passed on June 10, 1999, and the rather longer motion that Senator Tkachuk had made are as different as night and day.

I hear what Senator Cools is saying about Senator Tkachuk's view, which I think he incautiously expressed when he opened debate on the motion to the effect that what the committee should do or cause to be done is nullify what happened at the Standing Senate Committee on Energy, the Environment and Natural Resources.

Frankly, Senator Tkachuk's views as to what the committee should do with this motion, if the matter goes to committee, are irrelevant. He can express those views at the committee. I think we all know that one committee cannot nullify the actions of another committee. I do not think that is in very much doubt.

Senator Tkachuk made a motion to send the matter to committee and then proceeded to tell us what he thought the committee should find. I say that is irrelevant and we should, if we can, expunge it from our minds in considering the simple matter of whether a *prima facie* case of privilege ought to be referred to the relevant committee.

**Hon. Joan Fraser:** Honourable senators, this is then by way of a supplementary question. I think I would like Senator Murray to explain his reasoning a little more.

Senator Tkachuk's motion did not set out the remedy he sought, but his speech here did. For senators who may have missed it, it was quite sweeping. He said in the course of his speech:

My view is that the proper resolution of this issue is simple: The meeting of the committee ought to be declared null and void. The report should be deemed not to have been made. The Standing Senate Committee on Energy, the Environment and Natural Resources should be required to do what it was charged to do, which is to examine the bill.

That is a very formal statement made in a serious situation by the senator in question. I return to the Speaker's ruling, which said repeatedly that it is for the Senate to decide. The Speaker's ruling did not say it is for the Rules Committee to decide and, indeed, I cannot imagine this chamber deeming it appropriate to tell the Rules Committee to decide whether or not to nullify the proceedings of the committee.

I did not really believe what I heard, but is Senator Murray truly saying that when the senator who brought the question of privilege declares that the remedy is a remedy which I believe the Senate would find inappropriate, that we should say, "That is fine, we will just send it off to the Rules Committee"? Surely he did not mean that.

Senator Murray was seeking a change in the rules. If Senator Tkachuk had been seeking a change in the rules to allow, for example, a gap in time between the rising of the Senate and the

commencement of the committee, I would have thought that would be a perfectly reasonable thing for the Rules Committee to review. Can we truly not pay attention to what the honourable senator said?

**Senator Murray:** One can pay attention to what the honourable senator says, if you like, and I would agree that he went several bridges too far in his remarks, but it is irrelevant to the motion.

He can make his pitch, if I can put it in a colloquial way, when the matter goes to committee. I am not suggesting for a moment that the committee has any power other than to recommend something to the Senate, and it may well recommend a change in the rules. As Senator Carstairs, I believe it was, suggested earlier, that there ought to be 10 or 15 minutes of elapsed time between the adjournment of the Senate and the commencement of a committee.

As I said earlier, this is the vanity of old men, but I want to see the process that I believe has worked well in the past continue to be respected; that the *prima facie* question of privilege having been found to exist by the Speaker, we send the matter to the committee and the committee decides what to do. I am sure that the committee will know what to do with Senator Tkachuk's recommendations.

**The Hon. the Speaker:** I regret to inform honourable senators that Senator Murray's time has elapsed.

Continuing debate.

• (1630)

[Translation]

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I move adjournment of the debate.

[English]

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** No.

**The Hon. the Speaker:** All those in favour of the motion please signify by saying "yea."

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** All those opposed to the motion please signify by saying "nay."

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my view the "nays" have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** Is there agreement between the whips on the time?

**Senator Stratton:** Honourable senators, I refer you to the previous vote utilizing rules 67(1), 67(2) and 67(3).



**The Hon. the Speaker:** This is an adjournment motion, and adjournment motions are not deferrable.

May I consult the house?

Is it the view of the house that our rules provide that adjournment motions are not deferrable?

**Senator Tardif:** No.

**Senator Stratton:** One-hour bell.

**The Hon. the Speaker:** The vote will take place at 5:30. Call in the senators.

Does the chair have permission of the house to leave?

**Hon. Senators:** Agreed.

• (1730)

**The Hon. the Speaker:** Honourable senators, before putting the question, the chair wishes to recognize the chief government whip, followed by the chief opposition whip.

**Senator Stratton:** I believe agreement has been reached on both sides for this matter to be adjourned until next week.

**Hon. James S. Cowan:** Agreed.

**The Hon. the Speaker:** Honourable senators, the standing vote is obviated by the agreement.

On motion of Senator Comeau, debate adjourned.

## THE SENATE

### MOTION TO URGE CONTINUED DIALOGUE BETWEEN PEOPLE'S REPUBLIC OF CHINA AND THE DALAI LAMA—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Andreychuk:

That the Senate urge the Government of the People's Republic of China and the Dalai Lama, notwithstanding their differences on Tibet's historical relationship with China, to continue their dialogue in a forward-looking manner that will lead to pragmatic solutions that respect the Chinese constitutional framework, the territorial integrity of China and fulfill the aspirations of the Tibetan people for a unified and genuinely autonomous Tibet.—(*Honourable Senator Carstairs, P.C.*)

**Hon. Sharon Carstairs:** Honourable senators, when this motion was first introduced to this chamber, I had known for some time of the incredible support that Senator Di Nino had given to the Dalai Lama in the past, and clearly he believes strongly about this matter.

Then Senator Cools rose on a point of order, and His Honour ruled on that point of order. What I heard in the point of order, however, gave me a great deal of concern. What Senator Cools

said — and I totally agree — is that the Senate should not send instructions or make requests directly to a foreign power. That is why we have a foreign affairs department. That is why we have a government.

It is appropriate for us not to give instructions to the People's Republic of China but to give instructions to the Government of Canada. I can fully support a concept that we give instructions to the Government of Canada.

## MOTION IN AMENDMENT

**Hon. Sharon Carstairs:** Honourable senators, I move:

That the motion be not now adopted but that it be amended immediately following the word "of" in the first line by eliminating all the words in the rest of the motion and by replacing them with the following:

Canada and in particular the Foreign Affairs Minister, to have discussions with the Foreign Minister of the People's Republic of China regarding the Dalai Lama and the aspirations of the Tibetan people.

**Hon. Consiglio Di Nino:** I would like to reflect on the issue. If someone wishes to debate, I am happy to step down. Otherwise I will move the adjournment.

**Hon. Anne C. Cools:** I was prepared to move the adjournment.

**Hon. Marcel Prud'homme:** I will not stop the adjournment, but I would like to know if this change really is an amendment. I feel strongly about the words expressed by Senator Carstairs and Senator Cools. I have strong views on this matter. If honourable senators change some words and deny this motion, the Chinese government could ask the Canadian government to pay more attention to our First Nations people. I put to His Honour that an amendment is an amendment. Is it considered by the Speaker to be an amendment or a different motion? In my view it looks like a different motion. I am in your hands to participate when the time comes.

**The Hon. the Speaker:** The chair is comfortable that the motion in amendment as moved by Senator Carstairs is in order, and therefore the debate can continue on the motion in amendment.

We recognized Senator Di Nino, who then stepped aside. Are there any other senators who wish to speak before I put the motion of Senator Di Nino?

On motion of Senator Di Nino, debate adjourned.

[Translation]

## VICTIMS OF CRIME

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Di Nino calling the attention of the Senate to problems and challenges faced by victims of crime.  
—(*Honourable Senator Comeau*)

**Hon. Gerald J. Comeau:** Honourable senators, I still have some preparation to do on some very important points of this bill and given how late it is, I propose making my comments another time.

On motion of Senator Comeau, debate adjourned.

• (1740)

[English]

## THE SENATE

### FAILURE OF GOVERNMENT TO APPOINT QUALIFIED PEOPLE TO THE SENATE—INQUIRY— DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Banks calling the attention of the Senate to the failure of the Government of Canada to carry out its constitutional duty to appoint qualified persons to the Senate.—(*Honourable Senator Munson*)

**Hon. Jim Munson:** Honourable senators, this debate, as we know, deals with the failure of the government to appoint qualified people to the Senate. I would like to say a few words on this issue because it brings to light aspects of Canada's not-so-new government that should be of concern not only to us in the Senate but to all Canadians.

When it comes to the Senate, the Prime Minister has chosen to leave seats vacant except for two appointments for political purposes. The Prime Minister has chosen to appoint people he needs while ignoring the needs of Canadians who deserve to be represented in Parliament.

[Translation]

The Prime Minister's creativity is truly remarkable. He does not like the Senate of Canada and, accordingly, he refuses to recognize the fact that the Canadian Confederation requires a second chamber. Our Constitution specifies how and when a new senator is to be appointed, but this process poses political problems for Mr. Harper. To solve his problems, he is proposing to change the Senate by bypassing the Constitution. Senators Banks, Day and Moore have all explained the Prime Minister's plan in a clear and understandable way.

[English]

I thank honourable senators for their remarks. Since being appointed to this chamber, I have a renewed appreciation of history. The honour of being here amongst my honourable colleagues is surpassed only by the honour of being in this chamber, where so many worthy predecessors served since the time of Confederation.

This chamber, this institution, is a proud part of Canada's history. We are part of a tradition that reflects the birth of our nation and how Canada's Confederation was formed. This tradition has served our country well by ensuring regional representation and greater representation from women, Aboriginal people and minority groups in Canada's Parliament. Grattan O'Leary was one of my favourite senators.

Of course, the Senate is a human creation and, as such, may need to change with time. If the time has come to change the Senate, let us do so, but first let us respect our Constitution, our history and our traditions.

**Senator Segal:** How about Bill S-4?

**Senator Munson:** Thank you for that segue, Senator Segal.

We cannot sneak around the Constitution to serve our own means, as the Prime Minister has done. I have never been impressed with backdoor politics.

**An Hon. Senator:** How can you say that with a straight face?

**Senator Munson:** Because there are no cameras in here.

It is reprehensible for the Prime Minister to appoint a senator in order to have a strategic representative in his government from an urban centre, or to appoint a popular figure from his own province when so many seats in this chamber sit empty.

**An Hon. Senator:** Twice.

**Senator Munson:** Twice is too many.

This hypocrisy is unacceptable. I call on the Prime Minister to do three things: First, fill the empty seats in the Senate; and if he wants — for those friends of mine who have been heckling me this afternoon — he could appoint worthy people who represent his vision and his politics.

I know others on this side will welcome new colleagues and will look forward to working together as we know how to do. That is what I have discovered in this place. Having more Conservative senators would not bother me in our Senate committees.

**Senator Segal:** It would not bother us.

**Senator Munson:** Talk to your boss when he returns from Berlin. Tell him the time has come. He has a real opportunity here.

Second, I call on the Prime Minister to respect Canada's Constitution. If he wants to change the Senate, he must follow proper procedure and, in particular, take into account the views of the provinces. We have heard from four provinces who do not particularly like this change.

Third, I call on the Prime Minister to do his job.

I must be saying something. I have not had this much feedback for a long time.

The Prime Minister needs to remember his Canadian history and our parliamentary traditions. By not asking the Governor General to appoint the senators that we need in this chamber, the Prime Minister has failed Canadians and has failed in his constitutional obligations.

**Hon. Senators:** Hear, hear!

On motion of Senator Comeau, debate adjourned.



• (1750)

**MOTION URGING GOVERNOR GENERAL TO FILL  
VACANCIES IN SENATE—DEBATE ADJOURNED**

**Hon. Wilfred P. Moore**, pursuant to notice of May 29, 2007, moved:

That an humble Address be presented to Her Excellency the Governor General praying that she will fill the vacancies in the Senate by summons to fit and qualified persons.

He said: Honourable senators, for the past two months the Senate has been debating the inquiry of Senator Banks calling our attention to the large number of vacancies in the Senate and to the constitutional obligation of the government to fill those vacancies.

A number of senators who participated in the debate expressed their dismay that the Prime Minister has clearly stated a general policy that he will not fill vacancies. Not surprisingly, he made a glaring exception to this policy when he announced an appointment to fill a vacancy in his own home province of Alberta before that vacancy even occurred.

I acknowledge that there have been periods of time in the Senate when the vacancies in the Senate have exceeded 12. In the fullness of time, all such vacancies were filled. However, in those situations none of those Prime Ministers stated, "I do not intend to appoint senators unless necessary," as Prime Minister Harper has said.

We have expressed concern about the impact of the Prime Minister's decision on the rights of provinces. Senate representation is not optional. It is not the gift of a Prime Minister to give or withhold at his whim. Representation in the Senate is constitutionally guaranteed to every province as part of the compromise that made Confederation possible.

The Prime Minister's policy unilaterally denies the rights of the provinces. This Prime Minister cannot unilaterally rewrite a section of the Constitution which is an agreement between the federal government and the provinces that has existed for 140 years. We have also expressed concern about having sufficient numbers to carry on the proper functioning of the Senate.

Honourable senators, we had an illustration of this problem recently. On May 15 of this year, the Senate adjourned for a lack of quorum. It is not unusual in a parliamentary body for the opposition to attempt to use a lack of quorum to delay a government initiative that it opposes. This tactic is rarely successful because, under normal circumstances, the government can easily establish a quorum with its own members. On May 15, when the Speaker's attention was called to a lack of quorum in the Senate, debate was suspended for five minutes while the senators were summoned from the Reading Room. After that failed to establish a quorum, the bells were rung for a further 15 minutes.

Honourable senators, I emphasize that the day in question was a Tuesday — normally the beginning of our weekly calendar, not the end of it.

After the bells were rung, the government could not muster the 15 senators needed to carry on the business of this place. For the first time since 1914, the Senate adjourned for a lack of quorum.

This is the result of the Prime Minister's refusal to appoint senators, a serious undermining of the Senate's ability to function.

Equally disturbing is the constitutional situation the Prime Minister has created with his refusal to recommend appointments. Some seats have been vacant for well over a year. The Prime Minister has put the Governor General in the intolerable position of not carrying out her duty under section 32 of the Constitution Act, 1867.

Honourable senators, over the past two months no one on the government side in this place has defended the Prime Minister's policy of letting the vacancies linger. I wish I could say I am surprised. I particularly regret that none of my Conservative colleagues from Nova Scotia have spoken on an issue that affects our province's commitment to Confederation so deeply. Nova Scotia is currently the most affected by the Prime Minister's policy of neglecting vacancies. We have three vacancies, which amounts to 30 per cent of the seats guaranteed to Nova Scotia under the Constitution. Out of those vacancies, the seat left open by the retirement of Senator Buchanan has gone unfulfilled for almost 14 months now.

Honourable senators, I do not think we can remain silent about this state of affairs. At a minimum, we must say collectively that we want these vacancies filled. The Prime Minister advocates changes to the Senate; that is his privilege. In the meantime, he is wrong to say that he will disregard the Constitution until his proposals are adopted. He is wrong to oppress the constitutional rights of Nova Scotia and other provinces. He is wrong to fail to do his duty to recommend appointments to the Governor General.

One of the most basic roles of the Queen's representative is to preserve the Constitution. Normally, the Governor General acts on the advice of ministers. However, when the Prime Minister omits to tender advice in an effort to prevent the fulfillment of a constitutional obligation, where does that put the Governor General? Honourable senators, I submit that since the Prime Minister has plainly said that he refuses to recommend appointments, then it is incumbent upon Her Excellency to take whatever steps necessary to fulfill her constitutional duties. For that reason, I urge you to support the humble address I propose today, praying Her Excellency carry out her duty under section 32 of the Constitution Act, 1867, and fill the 12 vacancies here in this place.

**Some Hon. Senators:** Hear, hear!

**Hon. Lowell Murray:** Honourable senators, I have never been a client of Senator Moore's, but I trust his legal opinion is as good as people say it is because I intend to vote for his motion.

However, I have done some research on the matter, which I think is germane to some of the issues he has raised. I shall put it on the record when next we meet, which would be, I suppose, Tuesday.

Until then, I will propose the adjournment of the debate.

On motion of Senator Murray, debate adjourned.

## FOREIGN AFFAIRS AND INTERNATIONAL TRADE

COMMITTEE AUTHORIZED TO REFER DOCUMENTS  
FROM STUDY ON MATTERS RELATING  
TO AFRICA DURING PREVIOUS PARLIAMENTS  
TO STUDY ON BILL C-293

**Hon. Consiglio Di Nino**, pursuant to notice of May 30, 2007, moved:

That the papers and evidence received and taken and the work accomplished by the Standing Senate Committee on Foreign Affairs and International Trade for the special study on Africa, during the First Session of the Thirty-ninth Parliament and the First Session of the Thirty-eighth Parliament, be referred to the Committee for its study on Bill C-293, An Act respecting the provision of development assistance abroad (*Development Assistance Accountability Act*).

He said: Honourable senators, during our two-year special study on Africa, a great deal of information was gathered. Some of it was relevant and germane to the study of Bill C-293, which the Standing Senate Committee on Foreign Affairs and International Trade Committee is now in the process of reviewing. It was felt by the members of the committee that that information and those papers gathered during our special study on Africa would be useful for us to be able to deal in a more effective with Bill C-293. Therefore, we request your permission to so transfer them to this committee.

**Hon. Anne C. Cools**: Honourable senators, why is the reference needed? Why is an order of reference needed for the committee to be able to use those papers?

**Senator Di Nino**: We were informed by the very capable clerk and staff of the committee that this is required. I did not question that advice. If we look back, we will find that this process has happened many times. I believe there was one instance in the last week or so.

**Senator Cools**: I am aware of that. There are many of these orders of reference coming forward. Sometimes they are not necessary. I was wondering why an order was needed. When one studies a bill, normally — some people do it in committees; I no longer do it — one can look up and use any material that is the property of the Senate. We do not need a reference. If the study was of Bill S-4, one does not need a reference to look at all the other special committee reports that have gone on for the past number of years. I find this odd. Perhaps I will defer to Senator Corbin.

**Senator Di Nino**: Honourable senators, I believe the rules require this.

**Hon. Eymard G. Corbin**: Honourable senators, I wish to inform Senator Di Nino that once a committee has concluded its examination of the question referred to it by the Senate, and

once it has reported on that matter, the so-called matter is no longer before the committee. Therefore, one requires a motion of this type to bring the matter back to the committee.

**Senator Cools**: Obviously, that is the purpose of the committee report.

**The Hon. the Speaker**: The question was put to Senator Di Nino, whose time we are on. Senator Di Nino, do you wish to answer that?

**Senator Di Nino**: This is the kind of assistance that I needed. As I said, we were told that the rules required it. Obviously Senator Corbin, who is knowledgeable on these issues, as we all know, has put it more succinctly than I would have. Therefore, honourable senators, it is clear that we need this motion to be able to retrieve this information for us to use during our study on Bill C-293.

**Senator Cools**: Honourable senators, I am not trying to be difficult, but a committee reports and the whole system moves on a conveyor belt, so it is here.

• (1800)

That is quite true. The subject matter is no longer before that particular committee. However, Bill C-293 is. One does not need a reference in particular, because when any committee studies a bill, one can bring all sorts of other information forward. People can do that. This process is a little redundant.

If the committee wanted to go down the road of commencing a particular study, it would definitely need a reference. It is tiresome; I hear all the time that this person said we should do this and that person said we should do that. It is nonsense much of the time.

**The Hon. the Speaker**: Honourable senators, is there further debate?

**Some Hon. Senators**: Question!

**The Hon. the Speaker**: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

## BUSINESS OF THE SENATE

**The Hon. the Speaker**: Honourable senators, it now being six o'clock, I seek advice from the whips.

**Hon. Gerald J. Comeau (Deputy Leader of the Government)**: Honourable senators, if we were to seek the unanimous consent of the house, we might agree that we not see the clock.

**The Hon. the Speaker**: Honourable senators, is it agreed not to see the clock?

**Hon. Senators**: Agreed.



# STUDY ON ISSUES RELATED TO NATIONAL AND INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

## MOTION TO REQUEST GOVERNMENT RESPONSE ON REPORT OF HUMAN RIGHTS COMMITTEE— DEBATE ADJOURNED

**Hon. A. Raynell Andreychuk**, pursuant to notice of May 31, 2007, moved:

That, pursuant to rule 131(2), the Senate request a complete and detailed response from the Government, with the Minister of Foreign Affairs being identified as the Minister responsible for responding to the twelfth report of the Standing Senate Committee on Human Rights, entitled: *Canada and the United Nations Human Rights Council: At the Crossroads*.

She said: Honourable senators, I am rising to put a few words on the record as I understand there is a senator who might wish to ask questions, perhaps not with respect to the actual motion, but to the report that the committee has adopted previously, which is the report on the Human Rights Council and the interim report that we filed here.

On motion of Senator Corbin, debate adjourned.

## HUMAN RIGHTS

### COMMITTEE AUTHORIZED TO REFER DOCUMENTS FROM STUDY ON BILL S-21 DURING FIRST SESSION, THIRTY-EIGHTH PARLIAMENT TO STUDY ON BILL S-207

**Hon. A. Raynell Andreychuk**, pursuant to notice of June 5, 2007, moved:

That the papers and evidence received by the Standing Senate Committee on Legal and Constitutional Affairs

during its study of Bill S-21, An Act to amend the Criminal Code (protection of children), during the first session of the 38th Parliament be referred to the Standing Senate Committee on Human Rights for the purpose its study on Bill S-207, An Act to amend the Criminal Code (protection of children).

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

[Translation]

## ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, June 12, 2007, at 2 p.m.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, June 12, 2007, at 2 p.m.

# THE SENATE OF CANADA

## PROGRESS OF LEGISLATION

(indicates the status of a bill by showing the date on which each stage has been completed).

(1st Session, 39th Parliament)

Thursday, June 7, 2007

(\*Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Houses of Parliament have been notified of the declaration.)

### GOVERNMENT BILLS (SENATE)

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-2	An Act to amend the Hazardous Materials Information Review Act	06/04/25	06/05/04	Social Affairs, Science and Technology	06/05/18	0	06/05/30	07/03/29	7/07
S-3	An Act to amend the National Defence Act, the Criminal Code, the Sex Offender Information Registration Act and the Criminal Records Act	06/04/25	06/06/22	Legal and Constitutional Affairs	06/12/06	0 + observations 1 at 3rd	07/02/15	07/03/29	5/07
S-4	An Act to amend the Constitution Act, 1867 (Senate tenure)	06/05/30	07/02/20	(subject-matter 06/06/28 Special Committee on Senate Reform)	Report on subject-matter 06/10/26				
				Bill 07/02/20 Legal and Constitutional Affairs					
S-5	An Act to implement conventions and protocols concluded between Canada and Finland, Mexico and Korea for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	06/10/03	06/10/31	Banking, Trade and Commerce	06/11/09	0	06/11/23	06/12/12	8/06
S-6	An Act to amend the First Nations Land Management Act	07/04/25	07/05/15	Aboriginal Peoples	07/05/31	0	07/05/31		



**GOVERNMENT BILLS  
(HOUSE OF COMMONS)**

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-2	An Act providing for conflict of interest rules, restrictions on election financing and measures respecting administrative transparency, oversight and accountability	06/06/22	06/06/27	Legal and Constitutional Affairs	06/10/26 Report amended 06/11/06	156 Observations + 3 at 3 <sup>rd</sup> (including 1 amend. to report) 06/11/09 Total 158	06/11/09 Message from Commons- agree with 52 amendments, disagree with 102, agree and disagree with 1, and amend 3 06/11/21	06/12/12	9/06
							Referred to committee 06/11/23		
							Report adopted 06/12/07		
							Message from Commons- agree with Senate amendments 06/12/11		
C-3	An Act respecting international bridges and tunnels and making a consequential amendment to another Act	06/06/22	06/10/24	Transport and Communications	06/12/12	3 observations	06/12/13 Message from Commons- agree with Senate amendments 07/01/30	07/02/01*	1/07
C-4	An Act to amend An Act to amend the Canada Elections Act and the Income Tax Act	06/05/02	06/05/03	Legal and Constitutional Affairs	06/05/04	0	06/05/09	06/05/11	1/06
C-5	An Act respecting the establishment of the Public Health Agency of Canada and amending certain Acts	06/06/20	06/09/28	Social Affairs, Science and Technology	06/11/02	0 observations	06/11/03	06/12/12	5/06
C-8	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2007 ( <i>Appropriation Act No. 1, 2006-2007</i> )	06/05/04	06/05/09	—	—	—	06/05/10	06/05/11	2/06
C-9	An Act to amend the Criminal Code (conditional sentence of imprisonment)	06/11/06	07/02/27	Legal and Constitutional Affairs	07/05/03	0 observations	07/05/16	07/05/31*	12/07

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-10	An Act to amend the Criminal Code (minimum penalties for offences involving firearms) and to make a consequential amendment to another Act	07/05/30							
C-11	An Act to amend the Canada Transportation Act and the Railway Safety Act and to make consequential amendments to other Acts	07/03/01	07/03/28	Transport and Communications	07/05/17 Report amended 07/05/30	2 observations	07/05/31		
C-12	An Act to provide for emergency management and to amend and repeal certain Acts	06/12/11	07/03/28	Special Committee on the Anti-terrorism Act	07/06/05	0	07/06/06		
C-13	An Act to implement certain provisions of the budget tabled in Parliament on May 2, 2006	06/06/06	06/06/13	National Finance	06/06/20	0	06/06/22	06/06/22*	4/06
C-14	An Act to amend the Citizenship Act (adoption)	07/06/05							
C-15	An Act to amend the Agricultural Marketing Programs Act	06/06/06	06/06/13	Agriculture and Forestry	06/06/15	0	06/06/20	06/06/22*	3/06
C-16	An Act to amend the Canada Elections Act	06/11/06	06/11/23	Legal and Constitutional Affairs	07/02/15	0 + 1 at 3 <sup>rd</sup>	07/03/28 Message from Commons disagreeing with Senate amendment 07/04/27	07/05/03*	10/07
C-17	An Act to amend the Judges Act and certain other Acts in relation to courts	06/11/21	06/12/11	National Finance	06/12/12	0 observations	06/12/13	06/12/14*	11/06
C-18	An Act to amend certain Acts in relation to DNA identification	07/03/29	07/05/09	Legal and Constitutional Affairs					
C-19	An Act to amend the Criminal Code (street racing) and to make a consequential amendment to the Corrections and Conditional Release Act	06/11/02	06/11/21	Legal and Constitutional Affairs	06/12/14	0 observations	06/12/14	06/12/14*	14/06
C-22	An Act to amend the Criminal Code (age of protection) and to make consequential amendments to the Criminal Records Act	07/05/08							
C-24	An Act to impose a charge on the export of certain softwood lumber products to the United States and a charge on refunds of certain duty deposits paid to the United States, to authorize certain payments, to amend the Export and Import Permits Act and to amend other Acts as a consequence	06/12/06	06/12/12	National Finance (withdrawn) 06/12/13 Foreign Affairs and International Trade	06/12/14	0 observations	06/12/14	06/12/14*	13/06



No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>d</sup>	R.A.	Chap.
C-25	An Act to amend the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and the Income Tax Act and to make a consequential amendment to another Act	06/11/21	06/11/28	Banking, Trade and Commerce	06/12/14	0 observations	06/12/14	06/12/14*	12/06
C-26	An Act to amend the Criminal Code (criminal interest rate)	07/02/07	07/02/28	Banking, Trade and Commerce	07/04/19	0 observations	07/04/26	07/05/03*	9/07
C-28	A second Act to implement certain provisions of the budget tabled in Parliament on May 2, 2006	06/12/11	07/01/31	National Finance	07/02/13	0	07/02/14	07/02/21*	2/07
C-31	An Act to amend the Canada Elections Act and the Public Service Employment Act	07/02/21	07/03/21	Legal and Constitutional Affairs	07/06/05	11			
C-34	An Act to provide for jurisdiction over education on First Nation lands in British Columbia	06/12/06	06/12/11	Aboriginal Peoples	06/12/12	0	06/12/12	06/12/12	10/06
C-35	An Act to amend the Criminal Code (reverse onus in bail hearings for firearm-related offences)	07/06/05							
C-36	An Act to amend the Canada Pension Plan and the Old Age Security Act	07/03/20	07/04/17	Banking, Trade and Commerce	07/04/19	0	07/05/01	07/05/03*	11/07
C-37	An Act to amend the law governing financial institutions and to provide for related and consequential matters	07/02/28	07/03/21	Banking, Trade and Commerce	07/03/29	0	07/03/29	07/03/29	6/07
C-38	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007 ( <i>Appropriation Act No.2, 2006-2007</i> )	06/11/29	06/12/05	—	—	—	06/12/06	06/12/12	6/06
C-39	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007 ( <i>Appropriation Act No.3, 2006-2007</i> )	06/11/29	06/12/05	—	—	—	06/12/06	06/12/12	7/06
C-40	An Act to amend the Excise Tax Act, the Excise Act, 2001 and the Air Travellers Security Charge Act and to make related amendments to other Acts	07/05/15	07/06/05	Banking, Trade and Commerce	07/06/07	0			
C-46	An Act to provide for the resumption and continuation of railway operations	07/04/18	07/04/18	Committee of the Whole	07/04/18	0	07/04/18	07/04/18*	8/07
C-48	An Act to amend the Criminal Code in order to implement the United Nations Convention against Corruption	07/05/01	07/05/10	Foreign Affairs and International Trade	07/05/17	0	07/05/29	07/05/31*	13/07
C-49	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007 ( <i>Appropriation Act No.4, 2006-2007</i> )	07/03/26	07/03/27	—	—	—	07/03/28	07/03/29	3/07

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-50	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2008 ( <i>Appropriation Act No.1, 2007-2008</i> )	07/03/26	07/03/27	—	—	—	07/03/28	07/03/29	4/07

## COMMONS PUBLIC BILLS

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-252	An Act to amend the Divorce Act (access for spouse who is terminally ill or in critical condition)	07/03/22	07/04/19	Social Affairs, Science and Technology	07/05/10	0	07/05/29	07/05/31*	14/07
C-277	An Act to amend the Criminal Code (luring a child)	07/03/29	07/05/10	Social Affairs, Science and Technology	07/05/31	0			
C-280	An Act to Amend the Immigration and Refugee Protection Act (coming into force of sections 110, 111 and 171)	07/05/30							
C-288	An Act to ensure Canada meets its global climate change obligations under the Kyoto Protocol	07/02/15	07/03/29	Energy, the Environment and Natural Resources	07/05/17	0			
C-292	An Act to implement the Kelowna Accord	07/03/22	07/06/06	Aboriginal Peoples					
C-293	An Act respecting the provision of official development assistance abroad	07/03/29	07/05/29	Foreign Affairs and International Trade					
C-294	An Act to amend the Income Tax Act (sports and recreation programs)	07/04/17	07/05/02	National Finance	07/06/06	0			
C-299	An Act to amend the Criminal Code (identification information obtained by fraud or false pretence)	07/05/09							

## SENATE PUBLIC BILLS

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-201	An Act to amend the Public Service Employment Act (elimination of bureaucratic patronage and geographic criteria in appointment processes) (Sen. Ringuette)	06/04/05	06/06/22	National Finance	06/10/03	1	07/05/10		
S-202	An Act to repeal legislation that has not come into force within ten years of receiving royal assent (Sen. Banks)	06/04/05	06/05/31	Legal and Constitutional Affairs	06/06/15	1	06/06/22		
S-203	An Act to amend the Public Service Employment Act (priority for appointment for veterans) (Sen. Downe)	06/04/05	Dropped from the Order Paper pursuant to Rule 27(3) 06/06/08						
S-204	An Act respecting a National Philanthropy Day (Sen. Grafstein)	06/04/05	07/05/29	Legal and Constitutional Affairs					



No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-205	An Act to amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	06/04/05	06/10/31	Energy, the Environment and Natural Resources	07/02/14	0	07/04/25		
S-206	An Act to amend the Criminal Code (suicide bombings) (Sen. Grafstein)	06/04/05	06/10/31	Legal and Constitutional Affairs					
S-207	An Act to amend the Criminal Code (protection of children) (Sen. Hervieux-Payette, P.C.)	06/04/05	06/12/14	Human Rights					
S-208	An Act to require the Minister of the Environment to establish, in co-operation with the provinces, an agency with the power to identify and protect Canada's watersheds that will constitute sources of drinking water in the future (Sen. Grafstein)	06/04/06							
S-209	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	06/04/25	06/12/14	Energy, the Environment and Natural Resources	07/05/31	0			
S-210	An Act to amend the National Capital Act (establishment and protection of Gatineau Park) (Sen. Spivak)	06/04/25	06/12/13	Energy, the Environment and Natural Resources	07/06/07	2	observations		
S-211	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	06/04/25	06/05/10	Social Affairs, Science and Technology	06/06/13	0	06/10/17		
S-212	An Act to amend the Income Tax Act (tax relief) (Sen. Austin, P.C.)	06/04/26	Bill withdrawn pursuant to Speaker's Ruling 06/05/11						
S-213	An Act to amend the Criminal Code (cruelty to animals) (Sen. Bryden)	06/04/26	06/09/26	Legal and Constitutional Affairs	06/12/06	1	06/12/07		
S-214	An Act respecting a National Blood Donor Week (Sen. Mercer)	06/05/17	06/10/03	Social Affairs, Science and Technology	06/12/14	0	06/12/14		
S-215	An Act to amend the Income Tax Act in order to provide tax relief (Sen. Austin, P.C.)	06/05/17	07/02/20	National Finance					
S-216	An Act providing for the Crown's recognition of self-governing First Nations of Canada (Sen. St. Germain, P.C.)	06/05/30	06/12/13	Aboriginal Peoples					
S-217	An Act to amend the Financial Administration Act and the Bank of Canada Act (quarterly financial reports) (Sen. Segal)	06/05/30	06/10/18	National Finance					
S-218	An Act to amend the State Immunity Act and the Criminal Code (civil remedies for victims of terrorism) (Sen. Tkachuk)	06/06/15	06/11/02	Legal and Constitutional Affairs					
S-219	An Act to amend the Parliamentary Employment and Staff Relations Act (Sen. Joyal, P.C.)	06/06/27	07/05/31	Rules, Procedures and the Rights of Parliament					
S-220	An Act to protect heritage lighthouses (Sen. Carney, P.C.)	06/10/03	06/11/28	Fisheries and Oceans	06/12/11	16	06/12/14		

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-221	An Act to establish and maintain a national registry of medical devices (Sen. Harb)	06/11/01							
S-222	An Act to amend the Immigration and Refugee Protection Act and to enact certain other measures, in order to provide assistance and protection to victims of human trafficking (Sen. Phalen)	07/02/01							
S-223	An Act to amend the Access to Information Act (Sen. Milne)	07/02/15							
S-224	An Act to amend the Access to Information Act and the Canadian Wheat Board Act (Sen. Mitchell)	07/04/17							
S-225	An Act to amend the International Boundary Waters Treaty Act (bulk water removal) (Sen. Carney, P.C.)	07/05/09							
S-226	An Act to regulate securities and to provide for a single securities commission for Canada (Sen. Grafstein)	07/05/29							
S-227	An Act to amend the Bankruptcy and Insolvency Act (student loans) (Sen. Goldstein)	07/05/29							
S-228	An Act to amend the Non-smokers' Health Act (Sen. Harb)	07/05/30							

## PRIVATE BILLS

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-1001	An Act respecting Scouts Canada (Sen. Di Nino)	06/06/27	06/10/26	Legal and Constitutional Affairs	06/12/06	0	06/12/07	07/02/21*	



# CONTENTS

## Thursday, June 7, 2007

PAGE	PAGE
<b>SENATORS' STATEMENTS</b>	
<b>Canadian Cancer Society's Relay For Life</b>	<b>Heritage</b>
Hon. Catherine S. Callbeck . . . . . 2555	War Museum—Plaque on World War II Allied Bombing Raids on Germany.
<b>Pages Exchange Program with House of Commons</b>	Hon. Gerry St. Germain . . . . . 2561
The Hon. the Speaker . . . . . 2555	Hon. Marjory LeBreton . . . . . 2561
<hr/>	
<b>ROUTINE PROCEEDINGS</b>	
<b>Senate Ethics Officer</b>	<b>Non-smokers' Health Act (Bill S-228)</b>
2006-07 Annual Report Tabled.	Bill to Amend—Second Reading—Debate Adjourned.
The Hon. the Speaker . . . . . 2555	Hon. Mac Harb . . . . . 2561
<b>Auditor General</b>	<b>Medical Devices Registry Bill (Bill S-221)</b>
2006-07 Annual Report on Privacy Act Tabled.	Second Reading—Debate Continued.
The Hon. the Speaker . . . . . 2555	Hon. Gerald J. Comeau . . . . . 2564
<b>National Capital Act (Bill S-210)</b>	<b>Canada Securities Bill (Bill S-226)</b>
Bill to Amend—Report of Committee.	Second Reading—Debate Adjourned.
Hon. Tommy Banks . . . . . 2555	Hon. Jeremiah S. Grafstein . . . . . 2564
<b>Sales Tax Amendments Bill, 2006 (Bill C-40)</b>	Hon. Lowell Murray . . . . . 2566
Report of Committee.	Hon. Marcel Prud'homme . . . . . 2566
Hon. Jeremiah S. Grafstein . . . . . 2556	Hon. Francis William Mahovlich . . . . . 2567
<b>Kyoto Protocol Implementation Bill (Bill C-288)</b>	<b>Drinking Water Sources Bill (Bill S-208)</b>
Notice of Motion for Time Allocation.	Second Reading—Debate Continued.
Hon. Sharon Carstairs . . . . . 2556	Hon. Pierre Claude Nolin . . . . . 2567
<b>Study on International Obligations Regarding Children's Rights and Freedoms</b>	Hon. Jeremiah S. Grafstein . . . . . 2569
Notice of Motion to Request Government Response on Report of Human Rights Committee.	Hon. Gerald J. Comeau . . . . . 2569
Hon. A. Raynell Andreychuk . . . . . 2556	<b>Kyoto Protocol Implementation Bill (Bill C-288)</b>
<b>Rules, Procedures and the Rights of Parliament</b>	Third Reading—Motions in Amendment and Subamendment—Debate Continued—Vote Deferred.
Notice of Motion to Authorize Committee to Extend Date of Final Report on Study of Provisions of Constitution Act, 1867 Relating to Senate.	Hon. Lowell Murray . . . . . 2571
Hon. David P. Smith . . . . . 2557	Hon. Gerry St. Germain . . . . . 2572
<hr/>	
<b>QUESTION PERIOD</b>	
<b>National Defence</b>	<b>Question of Privilege</b>
United States Missile Defence Program.	Motion to Refer to Standing Committee on Rules, Procedures and the Rights of Parliament—Debate Continued.
Hon. Claudette Tardif . . . . . 2557	Hon. Tommy Banks . . . . . 2574
Hon. Marjory LeBreton . . . . . 2557	Hon. Terry Stratton . . . . . 2575
<b>Finance</b>	Hon. Consiglio Di Nino . . . . . 2576
Atlantic Accord—Offshore Oil and Gas Revenues.	Hon. Anne C. Cools . . . . . 2576
Hon. Jane Cordy . . . . . 2557	Hon. Lowell Murray . . . . . 2577
Hon. Marjory LeBreton . . . . . 2557	Hon. Joan Fraser . . . . . 2579
Hon. Bill Rompkey . . . . . 2558	Hon. Gerald J. Comeau . . . . . 2579
Hon. James S. Cowan . . . . . 2560	Hon. James S. Cowan . . . . . 2580
<b>The Senate</b>	<b>Victims of Crime</b>
Motion to Urge Continued Dialogue Between People's Republic of China and the Dalai Lama—Debate Continued.	Inquiry—Debate Continued.
Hon. Sharon Carstairs . . . . . 2580	Hon. Gerald J. Comeau . . . . . 2581
Motion in Amendment.	
Hon. Sharon Carstairs . . . . . 2580	
Hon. Consiglio Di Nino . . . . . 2580	
Hon. Anne C. Cools . . . . . 2580	
Hon. Marcel Prud'homme . . . . . 2580	

	PAGE
<b>The Senate</b>	
Failure of Government to Appoint Qualified People to the Senate—Inquiry—Debate Continued.	
Hon. Jim Munson .....	2581
Motion Urging Governor General to Fill Vacancies in Senate— Debate Adjourned.	
Hon. Wilfred P. Moore .....	2582
Hon. Lowell Murray .....	2582
<b>Foreign Affairs and International Trade</b>	
Committee Authorized to Refer Documents from Study on Matters Relating to Africa During Previous Parliaments to Study on Bill C-293.	
Hon. Consiglio Di Nino .....	2583
Hon. Anne C. Cools .....	2583
Hon. Eymard G. Corbin .....	2583

	PAGE
<b>Business of the Senate</b>	
Hon. Gerald J. Comeau .....	2583
<b>Study on Issues Related to National and International Human Rights Obligations</b>	
Motion to Request Government Response on Report of Human Rights Committee—Debate Adjourned.	
Hon. A. Raynell Andreychuk .....	2584
<b>Human Rights</b>	
Committee Authorized to Refer Documents from Study on Bill S-21 During First Session, Thirty-eighth Parliament to Study on Bill S-207.	
Hon. A. Raynell Andreychuk .....	2584
<b>Adjournment</b>	
Hon. Gerald J. Comeau .....	2584
<b>Progress of Legislation</b> .....	i











*If undelivered, return COVER ONLY to:*  
Public Works and Government Services Canada  
Publishing and Depository Services  
Ottawa, Ontario K1A 0S5





CANADA

# Debates of the Senate

---

1st SESSION

•

39th PARLIAMENT

•

VOLUME 143

•

NUMBER 106

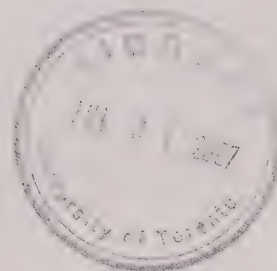
---

OFFICIAL REPORT  
(HANSARD)

**Tuesday, June 12, 2007**



THE HONOURABLE NOËL A. KINSELLA  
SPEAKER





## CONTENTS

(Daily index of proceedings appears at back of this issue).

## OFFICIAL REPORT

### CORRECTION

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I rise today to make a correction to the record, in my response to the Honourable Leader of the Opposition on June 6, 2007, which can be found on page 2538 of the *Debates of the Senate*. Part of my response reads:

The Kelowna accord bill is a matter of some debate here in the Senate, . . .

However, I said:

The Kelowna press release is a matter of some debate here in the Senate, . . .

Honourable senators can check the record to know that I said “press release” not “accord.” I would like the record to reflect my words on that date.

## THE SENATE

Tuesday, June 12, 2007

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

### THE LATE TROOPER DARRYL CASWELL

#### SILENT TRIBUTE

**The Hon. the Speaker:** Honourable senators, before we proceed, I would ask senators to rise and observe one minute of silence in memory of Trooper Darryl Caswell whose tragic death occurred yesterday while serving his country in Afghanistan.

*Honourable senators then stood in silent tribute.*

#### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of Ms. Mary Deros, who is a Montreal municipal councillor for the district of Park Extension. She is accompanied by Mr. Hagop Hagopian, a pillar of the Armenian community in Montreal. They are guests of the Honourable Senator Marcel Prud'homme, P.C.

Welcome to the Senate of Canada.

**Hon. Senators:** Hear, hear.

---

## SENATORS' STATEMENTS

### THE RIGHT HONOURABLE JOHN GEORGE DIEFENBAKER

#### FIFTIETH ANNIVERSARY OF ELECTION TO GOVERN

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I rise to draw your attention to an important date in Canadian history that occurred this past Sunday. Fifty years ago, on June 10, 1957, the Right Honourable John George Diefenbaker won the federal election. I vividly remember the day and the joyous celebration of my parents, lifelong Conservatives.

A well respected and successful lawyer in Saskatchewan, John Diefenbaker was a courageous, colourful and passionate man. He was a populist, a visionary and a man with strongly held views on the importance of human rights. His government, for instance, sold wheat to communist China for the first time, opening relations with that country.

He had a vision of the North and Canadian sovereignty. He called this vision "Roads to Resources," which the Liberal leader of the time, the Honourable Lester Pearson, derided as "roads from igloo to igloo."

His belief in human rights led to the Canadian Bill of Rights, which was passed by Parliament in 1960.

As Thomas Axworthy noted in an *Ottawa Citizen* op-ed piece in August 2002, the Canadian Charter of Rights and Freedoms would not exist today, "if Diefenbaker had not lit the way with his lifelong dedication to human rights."

His government gave status Indians the right to vote.

He appointed Ellen Fairclough as the first woman to serve in cabinet.

He led the charge within the Commonwealth to oppose South Africa's apartheid system.

• (1410)

He introduced simultaneous translation into Parliament, allowing parliamentarians to participate in the debates in the official language of their choice. He wanted all Canadians to feel at home in their own country.

Even though John Diefenbaker has had his share of critics, he should be celebrated as a great Canadian. It must be remembered, though, that he came to office facing an economic recession with no recovery plans in place and tough decisions to make — decisions that the previous Liberal government would not take.

One of the criticisms levelled at Mr. Diefenbaker, one of the most unfair, relates to his decision to cancel funding for the Avro Arrow, an expensive plane that no longer had any potential buyers. However, as Joseph Martin noted in Monday's *The Globe and Mail*:

The fighter jet was technologically out of date and far too expensive; the previous Liberal government had decided to cancel it and planned to announce that decision after it won re-election.

To continue to spend money on the Avro would have made no fiscal sense, but that did not stop the CBC and others doing documentary after documentary on Diefenbaker killing the Avro.

Honourable senators, I would like to conclude by quoting John Diefenbaker in the debate on the Bill of Rights — a numbered one of which I have hanging on my wall, as it very much defines the man and sums up the democratic values that we all hold as Canadians:

I am a Canadian, a free Canadian, free to speak without fear, free to worship God in my own way, free to stand for what I think right, free to oppose what I believe wrong, free to choose those who shall govern my country. This heritage of freedom, I pledge to uphold, for myself and all mankind.

Congratulations to a great man who played such a large role in a great period of our history.



## CANADA'S PARTICIPATION IN AFGHANISTAN

[Translation]

**Hon. Consiglio Di Nino:** Honourable senators, as we heard, last night in Afghanistan a Taliban bomb took the life of a young Canadian soldier, Darryl Caswell, of the Royal Canadian Dragoons, of Petawawa, Ontario. Two other soldiers were injured in the same incident when their vehicle was hit by an improvised explosive device. The loss of this young man's life is tragic, and I know our thoughts are with him and his loved ones.

Honourable senators, in some circles, this incident has once again raised the issue of Canada's presence in Afghanistan, particularly the military one. Two stories appeared in the media this week, which may provide an answer. The first is about Roshan, meaning hope or light, a little cell phone company 50 per cent owned by the Agha Khan Fund for Economic Development, and how it is providing not only the ability to communicate, but also security and economic opportunities for Afghanistan's struggling people. To everyone's surprise, the charity-backed company boasts an astounding 1.3 million subscribers and continues to add some 60,000 customers a month. It employs some 900 people, 20 per cent of them women. The CEO said,

We are more than a telephone company; we are helping rebuild our country.

In a place ravaged so long and so fiercely by the horrors of war, the emergence of this bright light is a testimony to the resilience of Afghans.

Honourable senators, the Canadian Forces have played and continue to play a major role in stabilizing the Kabul region, which allows these types of successes to occur.

The second story is a more heart-wrenching one, but no less relevant to Canada's presence there. It is the story of Zakia Zaki, a 35-year-old female journalist and human rights activist who was murdered while she slept with her young son — the second female journalist to be murdered last week in Afghanistan. What was her crime? Her crime was being a courageous woman who wanted to contribute to her community and her country in advancing the cause of women.

Honourable senators, the men and women of the Canadian Forces are prepared to put their lives on the line for the most honourable of causes, the protection of the rights of women like Ms. Zaki and their right to participate as equals in society.

That is something the Taliban disagree with; and when they can, they seek to impose their radical views through acts of intimidation and, all too often, by execution of the dissenters in cold blood.

I am sure honourable senators will agree with me that there are good and just reasons for Canada's participation in Afghanistan.

## THE HONOURABLE DANIEL HAYS, P.C.

## TRIBUTES

**Hon. Jean Lapointe:** Honourable senators, I would like to begin my tribute with an excerpt from a song made popular by the Compagnons de la Chanson:

He was so big, so very tall, we thought he might well reach the sky.

That is how I saw the Speaker of the Senate when I was appointed.

• (1415)

A few weeks ago, I learned with regret and great sadness that our colleague — or I should say our good friend — Senator Daniel Hays, would be leaving us this summer to take on new challenges.

I will always remember how hard he worked and how dedicated he was to public service, both as Deputy Leader of the Government in the Senate and as Leader of the Opposition in the Senate.

But what has impressed me the most about this extraordinary man is his grace, his composure, his sensitivity and the way he occupied the seat as Speaker of the Senate with such distinction. Senator Hays is one of those exceptional people who speak passionately — whether at home or abroad, in English or in French — about the various issues facing our country.

I look to Senator Hays as a model, and I will continue to do so as long as I know him. I am certain that I will never be as diplomatic as he is, but I will continue to draw inspiration from his subtlety and sophistication.

Thank you for everything, Senator Hays. I wish you a most peaceful rest with your charming wife Kathy, but I would particularly like to hope for your good health so that you can continue to inspire as many people as possible for many years to come.

**Hon. Marcel Prud'homme:** Honourable senators, I will not be here tomorrow, so I will not be able to pay tribute to our friend, Senator Hays, at that time. But what could I add after hearing Senator Lapointe's moving speech?

I would like that say that the Senate is losing a friend and a very qualified man. In my case, this goes back a long way, since I had the honour of being a member in the House of Commons with Senator Hays's father, the former mayor of Calgary, and thanks to Mr. Trudeau, I had the honour of being a delegate at the United Nations with Senator Hays's father, and so I was able to get to know him better. Then I had the honour of sitting with his son in the Senate and discovering with him a part of the world unfamiliar to me or to him. Other senators also accompanied Senator Hays, who really went beyond the call of duty to bring honour to our country, Canada, everywhere he went.

• (1420)

I do not think that he could have served his country and the Senate so well without the help of his wife, Kathy. In saluting him before I leave today, I would like him to convey our sincere gratitude to Kathy on our behalf. She has helped him in so many ways.

I am very honoured to see that just as I am finishing my tribute — would that it had been more eloquent — our friend, Senator Hays, has arrived. I would like him to reread Senator Lapointe's statement, which I find so touching.

I know that he is, by nature, more reserved than I, but I would like him to know that when I use the word "friend", I do not use it lightly.

[English]

I want to thank Senator Hays very much for having given me his friendship over the years and for sharing with me so many good stories about his late father. As I said earlier, I had the honour of being a member of the House of Commons not only under Mr. Pearson but also under Mr. Trudeau, whom I had the honour of accompanying to the United Nations.

Honourable senators, Senator Daniel Hays has done a fantastic job on behalf of Canada. He has made Canada proud to have such a great servant.

[Translation]

I would call him a great servant of the State, and that is quite exceptional. To me, that is what he has been: a great servant of the State, with the capable help of his wife, Kathy, whom I salute today.

[English]

### THE RIGHT HONOURABLE JOHN GEORGE DIEFENBAKER

#### FIFTIETH ANNIVERSARY OF ELECTION TO GOVERN

**Hon. Lowell Murray:** Honourable senators, I want to join with the Leader of the Government to mark the fiftieth anniversary of the election of the Diefenbaker government. Unfortunately, popular political legend tends to focus on the tumultuous later years of Mr. Diefenbaker's leadership. History also records that he recreated a truly national political party. He brought the West and Atlantic Canada in from the cold. His was a government that placed the aspirations of those regions at the centre of the national agenda.

Senator LeBreton mentioned the Bill of Rights. People otherwise marginalized in our society always regarded John Diefenbaker as their man, a champion of the underdog. One of the first acts of his government was to grant full voting rights to Aboriginals.

Mr. Diefenbaker led an activist and progressive government. He had campaigned against the miserly attitude of the St. Laurent Liberals towards old age pensioners and, despite a severe economic recession during his time in office, he maintained his

commitment to social justice. When he went back into opposition, he was critical of Mr. Pearson's cooperative federalism, but in some ways he was its author. He had appointed his friend the eminent Saskatchewan jurist Emmett Hall to chair the royal commission that essentially designed what we now know as medicare. He dropped the requirement that a majority of provinces had to sign on before a national hospital plan could begin, thus kick starting its implementation; and he provided the first ever transfer of tax points, in this case to Quebec, so that the benefit of federal grants to universities could be extended to that province.

Honourable senators, Mr. Diefenbaker steered a resolutely independent course on foreign policy. Canada's continued relations with Cuba; our trade with China, mentioned by Senator LeBreton; the leadership in nuclear disarmament of his former minister Howard Green and their refusal to accept nuclear warheads for Bomarc missiles; his fight against apartheid in South Africa — these were significant contributions to international affairs, even if in some cases they set us against United States policy at the time.

[Translation]

We recall the problems that the French language posed for Mr. Diefenbaker and many other federal leaders at the time. However, I would like to emphasize that only the Official Languages Act has had a greater impact on the federal government's linguistic duality than the introduction by Mr. Diefenbaker's government of simultaneous interpretation in both houses of Parliament.

[English]

Finally, a word about the Senate. Mr. Diefenbaker never even came close to achieving a majority in this house, but he remained respectful of the institution. In 1965, when the Pearson government moved to retire senators at age 75, Mr. Diefenbaker, while expressing scorn for some of the recent appointments to this place, expressed his admiration for much of the work that goes on here and urged Prime Minister Pearson to take advantage of the talent here by appointing more cabinet ministers from the Senate. He has left us much food for thought even 50 years later.

• (1425)

[Translation]

## ROUTINE PROCEEDINGS

### PUBLIC SECTOR INTEGRITY COMMISSIONER

#### CERTIFICATE OF NOMINATION OF MS. CHRISTIANE OUIMET TABLED

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, the certificate of nomination of Christiane Ouellet as Public Sector Integrity Commissioner.



## AUDITOR GENERAL

### MINISTER OF CANADIAN HERITAGE— JUNE 2007 REPORT TABLED

**The Hon. the Speaker:** Honourable senators, I have the honour to table, in both official languages, the report of the Auditor General of Canada to the Minister of Canadian Heritage, dated June 2007.

[English]

### STUDY ON VETERANS' SERVICES AND BENEFITS, COMMEMORATIVE ACTIVITIES AND CHARTER

#### INTERIM REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE TABLED

**Hon. Colin Kenny:** Honourable senators, I have the honour to table, in both official languages, the sixteenth report of the Standing Senate Committee on National Security and Defence, an interim report entitled, *An Enduring Controversy: The Strategic Bombing Campaign Display in the Canadian War Museum*.

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Kenny, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

## CONSTITUTION ACT, 1867

### BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Donald H. Oliver,** Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Tuesday, June 12, 2007

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

#### THIRTEENTH REPORT

Your Committee, to which was referred Bill S-4, An Act to amend the Constitution Act, 1867 (Senate tenure), has, in obedience to the Order of Reference of Tuesday, February 20, 2007, examined the said Bill and now reports the same with the following amendments:

1. Page 2, clause 1 (short title): Replace the word "2006" with the word:

"2007".

2. Page 2, clause 2: Replace lines 8 to 16 with the following:

"29. (1) Subject to subsection (2), the place of a Senator in the Senate shall, subject to the provisions of this Act, be held for a term of fifteen years, and the term shall not be extended or renewed.

(2) The place of a Senator shall become vacant when the Senator attains the age of seventy-five years.

(3) Notwithstanding subsection (1) but subject to the provisions of this Act, the place of a Senator who is summoned to the Senate before the coming into force of the Constitution Act, 2007 (Senate tenure) shall continue to be held until the Senator attains the age of seventy-five years."

and with the following recommendation:

"That the bill, as amended, not be proceeded with at third reading until such time as the Supreme Court of Canada has ruled with respect to its constitutionality."

Attached as an appendix to this Report are the observations of your Committee on Bill S-4.

Respectfully submitted,

DONALD H. OLIVER  
Chair

(For text of observations, see Appendix, p. 2614.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Oliver, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

## PUBLIC SECTOR INTEGRITY COMMISSIONER

### NOTICE OF MOTION TO APPROVE NOMINATION OF MS. CHRISTIANE OUMET

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move that, in accordance with Section 39 of the *Public Servants Disclosure Protection Act*, Chapter 46 of the Statutes of Canada, 2005, the Senate approve the appointment of Christiane Ouimet as Public Sector Integrity Commissioner.

## APPROPRIATION BILL NO. 2, 2007-08

### FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-60, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2008.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Comeau, bill placed on the Orders of the Day for second reading two days hence.

• (1430)

[English]

## STUDY ON PRESENT STATE AND FUTURE OF AGRICULTURE AND FORESTRY

### NOTICE OF MOTION TO ADOPT INTERIM REPORT OF AGRICULTURE AND FORESTRY COMMITTEE

**Hon. Joyce Fairbairn:** Honourable senators, I give notice that at the next sitting of the Senate, I will move:

That the third report of the Standing Senate Committee on Agriculture and Forestry entitled *Agriculture and Agri-Food Policy in Canada: Putting Farmers First!* tabled in the Senate on June 21, 2006 be adopted.

## QUESTION PERIOD

### FINANCE

#### ATLANTIC ACCORD— OFFSHORE OIL AND GAS REVENUES

**Hon. Jane Cordy:** Honourable senators, my question is directed to the Leader of the Government in the Senate. Prime Minister Harper and other members of his cabinet have misled the Canadian people by saying there are no changes to the Atlantic accord. In fact, the Leader of the Government herself stated erroneously that the Atlantic accord was not changed in the budget. This Conservative government has made a mockery of federal-provincial relations. When will the Prime Minister and this Conservative government do the honourable thing and keep their promise to the people of Nova Scotia and Newfoundland and Labrador by honouring the Atlantic accord?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, as I stated in my answer to my honourable friend's question of last week, the government fully honoured the Atlantic accords signed by the previous government in November 2005. Everything that was in place at the time of those accords, including the equalization formula, has been honoured by the government. The truth of the matter is that what was in place before the budget was brought in is exactly what was in place afterwards. The provinces concerned had the opportunity to opt into the new formula if they wished. If they did not, the existing agreements would be honoured.

I believe that the Prime Minister stated correctly yesterday that this government does not break contracts, and if that were the case, why would that case not be made before the courts.

**Senator Cordy:** I find it unusual that the minister would say the government is fully honouring the accord. Minister Hearn said the details are still under review. In fact, this morning, I had a meeting with the Premier of Nova Scotia and with the Minister of Finance from Nova Scotia and asked them that question. I mentioned that the Prime Minister is saying that they are fully honouring the accord, and the comment to me was, "That is just not true."

We now have a new low in federal-provincial relations. If the Harper government breaks a promise the attitude is, "So sue me." Why should Nova Scotians have to go to court to get the Prime Minister to keep his word?

**Senator LeBreton:** Honourable senators, the accords were honoured. The equalization that was in effect when the agreement was signed by the previous government is in place. I believe the confusion here rests with people who are reading the agreement as signed by the previous government and the acknowledgement that it would respect the equalization formula in place. Certain people have tried to extrapolate the detail in the accord signed by the previous government and overlay onto it the results and the implementation of the O'Brien commission report.

• (1435)

The fact is that Nova Scotia has \$95 million more because of the federal transfers than they had under the old agreement. As was stated, Nova Scotia had the opportunity to either remain with the Atlantic accord and the equalization formula or move to the new formula. They could not go back and forth, but they did have a year if they wished to return to the original accords.

**Senator Cordy:** The only confusion is with the Prime Minister.

### EQUALIZATION PAYMENTS TO PROVINCES

**Hon. Hugh Segal:** Honourable senators, when Bob Rae, the nominated Liberal candidate in Toronto Centre-Rosedale, was Premier of Ontario, he expressed grave concern about any circumstance under which equalization financed by federal taxpayers in some of the have provinces would provide for a circumstance where in other provinces the specific per capita fiscal capacity would be enhanced beyond the level of the contributing provinces. Mr. Rae found this circumstance steeply problematic.

Could the leader indicate whether in her view it was ever the intent of any government to produce that kind of distortion in the fundamental principle of equalization, which is equalizing opportunity between have and have-not, not reversing the cycle?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, that is correct in terms of Minister Flaherty's budget. This whole question of equalization has gone on for years and years. By implementing and bringing in many of the recommendations of the O'Brien commission, which I hasten to point out was commissioned by the provinces to make recommendations —

**Some Hon. Senators:** No, no.

**Senator LeBreton:** It was commissioned by the Martin government, but the provinces —

**Senator Rompkey:** They had their own.

**Senator LeBreton:** — but the Martin government and the provinces discussed many times the O'Brien commission and they could not come to an agreement.

At the end of the day, governments have to show leadership. The national government has to show leadership and it was not a broken promise. As a matter of fact, it was brought to my attention this morning that the Standing Senate Committee on



National Finance, chaired by the Honourable Senator Day, and having as members senators such as James Cowan, Grant Mitchell and William Rompkey, in December 2006, in its seventh report, made recommendations, including recommendation number 4, which states:

The federal government include 100 percent of natural resource revenues in the measurement of provincial fiscal capacity. No distinction should be made between renewable and non-renewable natural resource revenues.

That report was presented in this chamber and makes the same points as Senator Segal. In this case, the accords and the equalization payments were honoured, which some people do not want to accept. The fact is the Prime Minister and the government have quite correctly stated that we do not break contracts. This contract was not broken; this government does not break contracts. That was actually something done by the previous government on the helicopters, and action was taken against that government.

**Senator Cordy:** Promises made, promises broken.

**Senator LeBreton:** This promise has not been broken; it is a promise made and a promise kept. The government must show leadership in the name of fiscal balance and fairness.

#### ATLANTIC ACCORD—OFFSHORE OIL AND GAS REVENUES—ECONOMIC DEVELOPMENT PAYMENTS

**Hon. James S. Cowan:** Honourable senators, at any given time, there are any number of economic development agreements in place between the federal, provincial and territorial governments; agreements that ensure the development of our aerospace, automobile and other manufacturing industries.

• (1440)

My question is to the Leader of the Government in the Senate. Can she identify any economic development payments, other than the offset payments under the Atlantic accord, which are subject to a clawback under this Conservative budget?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I can cite one example of economic development payment, the Atlantic accord and the rights of those provinces to their offshore oil and gas revenues.

It is very clear that the government, as we were leading up to the preparation for the budget in March 2007, was cognizant of the commitment to Newfoundland and Labrador and Nova Scotia and that we would honour the Atlantic accord as signed by the previous government with no cap and with the equalization formula then in place. That was a commitment we made, and it was a commitment we kept.

**Senator Cowan:** Is the minister saying that the budget does not contemplate a clawback of the offset payments under the Atlantic accord?

**Senator LeBreton:** I am saying that the Provinces of Newfoundland and Labrador and Nova Scotia have a choice. They can either stay with the accord —

**Senator Cordy:** That is not the question.

**Senator LeBreton:** — negotiated with the previous government without a cap and with equalization then in place, or they can choose to opt in to the new equalization formula which, obviously, would be subject to the conditions of the new formula.

**Senator Cowan:** Honourable senators, I asked the Leader of the Government in the Senate last week about a legal opinion that would support her position, and I assume she is endeavouring to locate that.

I want to refer her to section 4 of the Atlantic accord which talks about the offset payments under an equalization formula as it existed at the time. Section 8 refers to the legislation that implemented the Atlantic accord at the time the calculation is being made. There is no suggestion that the phrase refers to the equalization period solely at the time that the Atlantic accord was signed. The first time that suggestion is made is in the budget document on page 115 where it says that they have a choice of operating under the previous equalization system until their existing offshore agreements expire. That is clearly and factually in contradiction to the Atlantic accord. I would ask for comment.

**Senator LeBreton:** Honourable senators, in the original accord signed by the previous government, the fact is that when they were referring to the accord at the time it was signed, equalization payments were in effect. That argument is the one Bill Casey used, and it is his interpretation.

The federal government and the other provinces — British Columbia, Alberta, Manitoba, Ontario, Quebec, Prince Edward Island and New Brunswick — were very happy to finally have the recommendations of the O'Brien commission so that hopefully this year-to-year debate over equalization will end.

The fact is, in the cases of Newfoundland and Labrador and Nova Scotia — and we also hear about Saskatchewan, but Saskatchewan is the big winner in this. No province, whether they stayed with the old formula or went to the new one, would receive less money. They are receiving more money.

**Senator Cowan:** See you in court.

• (1445)

#### ATLANTIC ACCORD—OFFSHORE OIL AND GAS REVENUES—BUDGET 2007—SUPPORT OF CONSERVATIVE CAUCUS

**Hon. Wilfred P. Moore:** Honourable senators, my question is directed to the Leader of the Government in the Senate. In light of Nova Scotia Premier Rodney MacDonald's demands of Nova Scotia senators to "delay the budget bill," will the members of her Nova Scotia caucus be defending this deceitful document, or will they be defending the people of Nova Scotia by voting against this Harper budget?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, the senators on this side from Nova Scotia are fully cognizant of what was in the Atlantic accord. We have made a very good case to them about what exactly it was that we agreed to with those provinces,

and we have honoured those agreements. I believe that Premier MacDonald and Premier Williams have obviously interpreted this another way, which is their right.

The fact is that the government did not break an agreement. That is not something this government would do or intends to do.

I happened to hear the Premier of Newfoundland and Labrador on CBC radio on Saturday. It is absolutely reprehensible for a premier of any province to go on the radio calling people liars, making the case that this money was taken away from Newfoundland and Labrador and given to Quebec. It is a divisive statement that is not true. While Danny Williams might have been able to threaten to pull down the Canadian flag and bully Paul Martin, he will not get away with it with this government.

**Senator Moore:** If these Nova Scotia senators choose the people of Nova Scotia over this duplicitous Prime Minister, will the Leader of the Government be offering the same ironclad offer of protection the Minister of Foreign Affairs offered his counterparts in the other place, or should they just move to their freshly reassigned seats now and save the whip some paperwork?

**Senator LeBreton:** The fact is I have every confidence that my colleagues understand what the government has been trying to do and is doing. I have every confidence that they both will be my seatmates after the budget has been voted on.

## PUBLIC WORKS AND GOVERNMENT SERVICES

### DEPARTMENT OF NATIONAL DEFENCE NON-COMPETITIVE CONTRACTS

**Hon. Sharon Carstairs:** Honourable senators, my question is directed to the Minister of Public Works.

**Senator Milne:** He is here.

**Senator Carstairs:** He is always here for Question Period, let us be honest. He felt a little lonely over there, so I have made it my business to prepare questions every day in order to make him feel more comfortable in this place, since we probably will not have him in Parliament for much longer.

Honourable senators, instead of using Business Access Canada and a public database of federal contracts awarded by the Department of Public Works and Government Services for the Department of Finance Canada, it has been found that more than 40 per cent of DND contracts were classified as non-competitive and that the percentage in dollar value had more than doubled. Can the Minister of Public Works explain why this is happening on his watch?

**Hon. Michael Fortier (Minister of Public Works and Government Services):** Honourable senators, I am happy to explain why we are spending more money equipping our military with the proper assets. They have been denied these types of assets for too long.

**Some Hon. Senators:** Hear, hear!

**Senator Fortier:** It is quite appropriate that we provide them with the equipment.

With respect to the report — which I have not read, but I have read a summary — obviously what is important is how people analyze and interpret procurement methods to get these assets, whether they are military assets or for another department, vaccines or even furniture. An ACAN, or Advance Contract Award Notice — which I am told is really the trigger point in the report — is viewed by Treasury Board as a competitive tool, and I agree with that. ACANs has been around for a long time.

• (1450)

Actually, I think they offer a unique opportunity for us to collapse the delay in acquiring assets. In some cases, I have seen it take 188 months to get a particular asset to the military. In using ACANs, if we think there is one manufacturer, we identify it, but at the same time we offer potential competitors an opportunity to raise their hand and say that they also manufacture this type of asset. It has happened in the past.

Honourable senators, the reality is that the use of ACANs is not as widespread as one would make you believe. When we use ACANs, we ensure, through the assistance of the professionals at Public Works, that we believe there is only one manufacturer out there that can manufacture the equipment, but we also allow time for others to prove us wrong. Before we showed up, there were cases where people had been able to demonstrate that they actually manufactured a tool or asset that we did not think was available outside of this one specific party.

I think the system works well. We will continue to be as competitive as possible.

I wish to remind honourable senators that with respect to the purchase of the Boeing C-17 aircraft, we did use an ACAN. We believe that we paid five to seven per cent less than anyone else who has ever bought a C-17.

**Senator Carstairs:** With the greatest respect to the minister, that does not explain why non-competitive contracts have increased from 35 per cent to almost 41 per cent of the overall contracts. It also does not explain why the Minister of Defence, who in his previous life was a lobbyist and had contracts with five of the 10 global defence contractors, is not being scrutinized to a much greater degree in issuing these non-competitive contracts. It does not pass the smell test. Would the minister explain that to the members of this Senate?

**Senator Fortier:** I hasten to remind the honourable senator that we do not agree on definitions; let us agree to disagree. ACANs are competitive, so we could have this “back and forth” for a long time. If you take the ACAN out of the study, I am told, the number of truly sole-source contracts comes down significantly.

Under Treasury Board policy, there are exceptions where there is no choice but to sole source a contract, such as in the case of emergencies or where someone has an intellectual property right to a particular piece of software.



With respect to the minister, he has disclosed to the Ethics Commissioner all of his past activities. We are very pleased to have him on our team. He brings to the table much experience on the military front. He is adored by the troops and has done a superb job as Minister of Defence.

**Senator Carstairs:** Honourable senators, we are dealing with a fundamental issue. We had sole sourcing on 35 per cent of the contracts. Now we have sole sourcing under my honourable friend's watch of almost 41 per cent of the contracts. What has changed to make it so much more necessary today than it was a year ago to go to sole source contracting?

**Senator Fortier:** I assume the honourable senator is quoting from the report, and this is data with which I would disagree. This is not sole sourcing; an ACAN is not a sole-source contract. If the ACAN is taken out of the picture, she will realize that actually a *de minimis* number of these situations have taken place over the past 18 months, since I have been around. If she looked at it over the past 10 years, for example, she would not find this stretch of 16 to 18 months to be any different from what we have experienced during similar stretches of time.

We are doing a good job. The department is doing a good job. We are getting good deals for taxpayers and, more importantly, we are providing the military with the equipment it desperately needs.

[Translation]

**Hon. Roméo Antonius Dallaire:** Honourable senators, between 1985 and 1989, I was responsible for all materiel procurement for the Army. Pursuant to the supplementary measures in the white paper published in 1987 under Prime Minister Mulroney, there were procurements, despite the fact that the white paper was gutted by the 1989 budget. Needs were identified at the time and we had to go directly to the source of those needs based on what was available.

• (1455)

A summary could have been provided, like the one you gave on the C-17 procurement contract, to prove to people that we were not being had, that the price paid was a preferred price, a lower price, a reasonable price compared to the price others could have paid for the same equipment.

Are you able to share with us concrete facts that could reassure us that we are not being had by the vendor?

**Senator Fortier:** Honourable senators, the system is transparent and the price paid for the C-17s was announced when the contract was signed. These documents are public. Someone like you, who is well versed in this industry, could compare the prices to what other countries have paid — we know this because we have experts at the Department of Public Works who work with people at the Department of National Defence who have a good idea of what countries are paying for this type of asset.

As far as the ACAN tendering process is concerned, I can assure you that it works well. The manufacturer also needs to know that the client — us in this case — has a plan B and we will not pay an unreasonable price to procure these planes.

We have to use a procurement strategy and the contract award notice, but we must always have a backup plan in case there is a

stumbling block in the negotiations with the manufacturer, who, of course, knows he is the only one because he was designated by the government.

So far, in my experience, the department has been striking this balance quite well, whether for military, medical or high technology procurement. I am therefore confident in the system currently in place.

[English]

## INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

### KELOWNA ACCORD—COMMENTS BY MINISTER

**Hon. Jim Munson:** Honourable senators, I would like to get back to the world of accordians. I have a question to the Leader of the Government in the Senate, which has to do with the Kelowna accord.

Recently the Honourable Terry Stratton rose during debate and proclaimed that there is no accord; it does not exist. He went on to say that the Prime Minister wisely chose the most qualified candidate to serve as Minister of Indian Affairs and Northern Development and federal interlocutor for Metis and non-status Indians, that the varied career of the honourable member of Calgary Centre-North enabled him to amass considerable expertise in Aboriginal matters. He was talking about Jim Prentice.

Honourable senators, I am heartened to see the honourable senator heap so much praise on the minister; so he must understand my confusion when I hear him contradict this very same man, who appeared on APTN during the last federal election campaign proclaiming loudly that he was the “party spokesman on the Kelowna accord.” He said, “Let us be perfectly clear for the viewers of your network, we are supportive of Kelowna.”

Who speaks for the party on Kelowna, the minister or our honourable colleague?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, the fact is the meetings at Kelowna in November 2005 were attended by our then-critic, now, the Minister of Indian Affairs and Northern Development, the Honourable Jim Prentice. In the press statement that followed the Kelowna meetings it was not called an accord. The honourable senator can check that. It was called an “accord” some time later, by Toronto's *The Globe and Mail*. It was then that the phrase “the Kelowna accord” made it into the political dialogue.

The fact is, as Senator Munson knows, there was no accord. There was no signed accord; there was no fiscal framework developed around the so-called accord. The Minister of Indian Affairs and Northern Development has made great strides and has a great deal of credibility in this area. Honourable senators will know how seized he is of these files and his wealth of knowledge on these matters when he makes an announcement later today.

• (1500)

**Senator Munson:** The minister can say what she has to say, but the words of Mr. Prentice are on the record as proclaiming loudly that he was the “party spokesman on the Kelowna accord.” Those are his words. He also said, “Let us be perfectly clear for the viewers of your network, we are supportive of Kelowna.”

**Senator LeBreton:** As I just said in response to the honourable senator, the Kelowna meetings became the Kelowna accord in the media and in public, even though no accord was signed. Minister Prentice was quite correct in that he was and is the spokesperson for the party on all matters in respect of Indian and Northern Affairs Canada. He has stated many times the intent of the meetings in Kelowna are fully supported by the government.

[Translation]

### DELAYED ANSWER TO ORAL QUESTION

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour of presenting a delayed answer to a question raised on April 17, 2007, by Senator Dallaire regarding Veterans Affairs, Vimy Ridge Celebrations—French translation on commemorative plaques.

### VETERANS AFFAIRS

#### VIMY RIDGE CELEBRATIONS—FRENCH TRANSLATION ON COMMEMORATIVE PLAQUES

*(Response to question raised by Hon. Roméo Antonius Dallaire on April 17, 2007)*

This Government is committed to both of Canada's official languages and is responsible for equal treatment of both the French and English languages in all Government transactions and in the translation of all products that are used and/or displayed by the Government.

The panels in question were a small part of a much larger display. All other information displayed at the Vimy Information Centre was created by the Government of Canada in both official languages and is of high quality.

On April 5, 2007, as soon as the Minister of Veterans Affairs was made aware of the errors in the French text, errors which he called “totally unacceptable”, he acted swiftly and had the panels removed.

Veterans Affairs takes very seriously its responsibility to reflect the linguistic duality of Canada. Canada's official languages must be properly displayed at all Government of Canada sites, including the Canadian National Vimy Memorial in France. Veterans Affairs Canada (VAC) will continue to ensure that material displayed at sites that are the responsibility of the Department meet the Federal legislation, and in the future, will ensure that there is heightened quality control of the translation for all items to be displayed.

The action taken by the Department as a result of the identification of the errors will result in high quality translated products for public display as VAC continues to work with Canadians and other citizens of the world, to keep alive the memory of the achievements and sacrifices made by those who served Canada in times of war, military conflict and peace.

[English]

### THE SENATE

#### TRIBUTE TO DEPARTING PAGES

**The Hon. the Speaker:** Honourable senators, before proceeding to Orders of the Day, from today until the end of the week we will be saying farewell to departing Pages and wishing them good luck for the upcoming year.

Having served the Senate of Canada for the past two years, our proud Albertan, Amy Marlene Robichaud, is honoured for the exceptional and challenging experience serving in the Senate. This fall, Amy will resume her studies in Public Administration at the University of Ottawa while also serving as President of the English Debating Society.

Second, Rachel Dares, from Toronto, Ontario, has served as a page while completing her Honours Bachelor of Journalism degree at Carleton University. She is grateful to have shared this learning experience with such a good team. Rachel's future plans include travelling and working abroad as a reporter, going skydiving, learning new languages and getting her scuba licence.

Third, Jamie Mouawad, from Moncton, New Brunswick, is bidding farewell to the Senate Page Program retaining many good memories. Her two years of serving in this place have been a rewarding experience. Jamie has graduated with honours in International Studies and Modern languages at the University of Ottawa and will be pursuing studies in law and human rights.

### ORDERS OF THE DAY

#### SALES TAX AMENDMENTS BILL, 2006

#### THIRD READING—DEBATE ADJOURNED

**Hon. Michael A. Meighen** moved third reading of Bill C-40, to amend the Excise Tax Act, the Excise Act, 2001 and the Air Travellers Security Charge Act and to make related amendments to other Acts.

**The Hon. the Speaker:** Is there debate, honourable senators?

On motion of Senator Tardif, debate adjourned.



**CANADA ELECTIONS ACT  
PUBLIC SERVICE EMPLOYMENT ACT**

**BILL TO AMEND—MOTION IN AMENDMENT—  
REPORT OF COMMITTEE ADOPTED**

On the Order:

Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator Nolin, for the adoption of the twelfth report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill C-31, to amend the Canada Elections Act and the Public Service Employment Act, with amendments), presented in the Senate on June 5, 2007;

And, on the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Johnson, that the twelfth report of the Standing Senate Committee on Legal and Constitutional Affairs be not now adopted but that it be amended:

(a) by deleting amendment No. 1;

(b) at amendment N° 7, by replacing the text after “Page 16, clause 40:” with the following:

“Replace lines 30 to 39 with the following:

**“40. The *Public Service Employment Act* is amended by adding the following after section 50:**

**50.1** Despite subsection 50(2), the maximum period of employment of casual workers appointed in the Office of the Chief Electoral Officer for the purposes of an election under the *Canada Elections Act* or a referendum held under the *Referendum Act* is 165 working days in one calendar year.”; and

(c) by renumbering amendments 2 to 11 as amendments 1 to 10.

**Hon. Lorna Milne:** Honourable senators, I am pleased to speak today to the twelfth report of the Standing Senate Committee on Legal and Constitutional Affairs in respect of Bill C-31, to amend the Canada Elections Act and the Public Service Employment Act. As Senator Nolin pointed out last week, this bill was a collaborative effort in response to a report of the Standing Committee on Procedure and House Affairs in the other place that was supported by all parties represented on that committee.

My main concern when I first reviewed this bill was the change that was made by the committee studying this bill in the other place to allow the date of birth of electors to be on voter lists that would be eventually distributed to offices of all political parties across Canada. While I can understand why this information would be useful to candidates in political parties, some members of your committee felt that its utility would be far outweighed by the risk for abuse that this change would have created for Canadians concerned with crimes associated with identity theft.

Bill C-31 makes a number of changes to the way in which data is collected and maintained in the National Register of Electors. It also allows the Chief Electoral Officer at Elections Canada to share more information with his provincial counterparts. In

addition, Bill C-31 allows returning officers to update the National Register of Electors between elections instead of the current regime whereby returning officers are permitted to update the NRE during elections.

Honourable senators, it is in the hiring of workers before, during and after election periods that I wish to focus my remarks on today. In the original version of this bill, clauses 40 and 41 would amend the Public Service Employment Act. It was explained by officials accompanying Minister Van Loan during his appearance before your committee on May 10, 2007, that these clauses would allow, by regulation, the term of casual election workers to be extended beyond the current 90-day period to some unstated period of time.

When asked directly whether these clauses were specifically intended for election workers and whether they would give the Chief Electoral Officer the ability to hire the same people twice if there happened to be two elections in one year, Ms. Natasha Kim, Senior Policy Advisor for Legislation and House Planning at the Privy Council Office, replied with a simple, yes. However, this is not what we learned a few days later from the Professional Institute of the Public Service of Canada.

• (1510)

The representatives of PIPSC advised members of your committee that these clauses would affect the entire federal public service, not just Elections Canada, a fact later confirmed by the President of the Public Service Commission, Maria Barrados, when she appeared before the committee. This at a time when it has been widely reported that of the 45,000 people hired by the federal government in 2005, only 15,000 were permanent or term positions. Also, Ms. Barrados told us that she negotiated an agreement that none of these temporary workers would or could be hired for longer than 165 days. However, this supposed limit was nowhere to be seen in the actual bill.

Honourable senators, this apparent contradiction put some members of your committee in a quandary. A number of members felt they wanted to assist the Chief Electoral Officer by extending the term that election workers could remain hired by Elections Canada in those instances where there is more than one election in a calendar year, but not at the price of changing the way the entire public service hires its casual workers. Therefore, members of your committee voted to remove clauses 40 and 41 of Bill C-31.

I do not believe it was ever the intent of the committee to present an obstacle to the holding of fair and credible elections, so I was pleased to learn that an alternative would be presented at report stage by the government. This alternative, the amendment put forward by Senator Nolin, narrows the scope of the clauses applying to the Public Service Employment Act in order to specifically target the extended employment of casual workers only at Elections Canada and only for a total of 165 days. The present allowable total of 90 days will remain in place for all other government departments.

I support Senator Nolin's amendment for two reasons. First, I believe it will allow Elections Canada to operate without worrying about losing experienced casual staff due to a provision in the Public Service Employment Act that was designed to apply

to the entire Public Service of Canada. This amendment will allow the Chief Electoral Officer and his staff to meet the challenges that Senator Nolin spoke of in his speech on June 6 and to continue to ensure the proper functioning of our democratic system of elections.

The second reason I support the amendment proposed by Senator Nolin is due to its scope. The amendment is meant to apply specifically to workers hired by the Office of the Chief Electoral Officer to run elections and referendums. The wording of this amendment will prevent the Public Service Commission and other government departments from using this provision to substantially alter the way in which casual workers are entering and maintaining employment in Canada's public service.

While the existing system of hiring public servants may not be perfect, I doubt if it was ever the intention of the Standing Committee on Procedure and House Affairs in the other place to address this broader employment issue when considering legislative changes to the Canada Elections Act.

To close, honourable senators, I wish to take this opportunity to thank all of those senators who took part in the proceedings of the Standing Senate Committee on Legal and Constitutional Affairs on Bill C-31. Their input was invaluable in evaluating the series of complex issues that are addressed in this bill.

After reviewing the bill and the suggested amendment by Senator Nolin, I encourage honourable senators to support the change he has proposed for the reasons that I just stated. This is an important piece of legislation that I hope will allow future elections to be conducted more smoothly and allow Canadians to continue to be proud of their electoral system.

**The Hon. the Speaker pro tempore:** If there is no further debate, is it your pleasure, honourable senators, to adopt the motion in amendment?

Motion in amendment adopted.

**The Hon. the Speaker pro tempore:** We will now proceed to the main motion, the twelfth report of the Standing Senate Committee on Legal and Constitutional Affairs on Bill C-31, as amended.

Is it your pleasure, honourable senators, to adopt the motion, as amended?

Motion, as amended, agreed to and report adopted.

**The Hon. the Speaker pro tempore:** Honourable senators, when shall the bill be read a third time?

On motion of Senator Nolin, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

## STUDY ON USER FEE PROPOSAL FOR INTERNATIONAL YOUTH PROGRAM

REPORT OF FOREIGN AFFAIRS  
AND INTERNATIONAL TRADE COMMITTEE ADOPTED

The Senate proceeded to consideration of the thirteenth report of the Standing Senate Committee on Foreign Affairs and

International Trade (User Fee Proposal—International Youth Program), presented in the Senate on June 6, 2007.

**Hon. Consiglio Di Nino** moved the adoption of the report.

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

## INTERNATIONAL BOUNDARY WATERS TREATY ACT

BILL TO AMEND—SECOND READING—  
DEBATE ADJOURNED

**Hon. Pat Carney** moved second reading of Bill S-225, to amend the International Boundary Waters Treaty Act (bulk water removal).—(*Honourable Senator Carney, P.C.*)

She said: Honourable senators, Canadians are under the illusion that our precious freshwater resources are protected from our neighbours. My grandfather, John Joseph Carney, who homesteaded in the Okanagan in the 1890s, was under the same illusion. He was wrong.

John Joseph's log cabin was built on an arid side hill overlooking the sun-scorched Ellison Valley, cattle country back then, before the orchards and the vineyards. The homestead's prime asset was a big bubbling spring, called the Punch Bowl, nestled amid a thicket of willows next to the cabin.

When the issue of water rights was introduced, John Joseph was indignant. Why did he need a licence for a water source next to his home? He complained to his wife, Bridget, but at her urging he saddled up his horse, Billy, and rode to town to apply for the licence.

The son of Irish immigrants, John Joseph liked his rye whiskey. He stopped at a bar for refreshments and to debate the issue with his drinking buddies. He did not get to the water office in time. His neighbour did. He won the rights to the Punch Bowl right next door to the Carney home. That was the end of the homestead.

I have told the Senate this before. When old John Joseph died, there was no grain in the barn, no cattle on the range; there was nothing because he had no water for the homestead. Water rights and water licences became gut issues for our family. A couple of weeks ago I drove past the old homestead. I did not trespass, but the willow thicket is there. I was unable to determine if the punch-bowl still had its water.

When I served as the Minister Responsible for the Canada-U.S. Free Trade Agreement, in 1986, I monitored water issues like a hawk. My chief negotiator, Simon Reisman, was an early proponent of a scheme, the North American Power and Water Alliance, called NAPAFA, that would dam virtually every river in Alaska and British Columbia and divert water down B.C.'s 500-mile Rocky Mountain Trench south to Texas, California and Mexico. It would be the largest engineering project in the world. Canadian opposition sunk NAWAPA. The reference to water in the FTA is minimal. It is contained in Tariff Schedule 22.01,



which deals with natural or artificial mineral waters, aerated waters not containing added sugar, sweetening matters or flavours. At some point, the ambiguous phrase "ice and snow" was added.

• (1520)

The FTA and its sequel NAFTA, which included Mexico in the pact, also includes the provision that if any commodity such as water becomes a tradable good, Canada could be required to award U.S. and Mexican companies national treatment. Essentially, Canada would be obligated to provide Americans and Mexicans the same access Canadians enjoy to our fresh water resources if water ever became a tradable good.

Clearly, the safeguard is to prohibit bulk water exports, which the Mulroney government did with its National Water Policy that has since been upheld by the Harper government. However, a policy is not law and can be changed without parliamentary process. That is why in 2001, as Conservative critic in the Senate, I became concerned about Bill C-6, an act to amend the International Boundary Waters Treaty Act introduced by the Liberal government.

This sleeper of a bill, presented as a prohibition of bulk water removals, passed through the House of Commons without anyone noticing the bill actually permitted bulk water removals where no such permission then existed. Liberal Senator Corbin from New Brunswick claimed that Bill C-6 would establish in law "an unambiguous prohibition of bulk water removal in waters under federal jurisdiction."

Specifically, although Bill C-6 was cast as a housekeeping bill to give legislative context to the treaty and to clarify the government's opposition to the removal of bulk water, in fact it was drafted in a manner whereby it could actually be used to permit bulk water removals.

The intent of Bill C-6 was never contained in the legislation itself but merely suggested in regulations, which we as legislators know, can be changed without Parliament.

First among its flaws, the bill did not define bulk water in the legislation. It prohibited something that it did not define. The definition was subsequently included in the regulations, which can be changed, and banned the removal of more than 50,000 litres per day in a continuous flow, which is about a truck tanker of water.

Second, there were exceptions to the prohibition on bulk water removals. Under certain conditions, the Minister of Foreign Affairs could licence such bulk water removals by regulation. Numerous experts consistently shared my concerns about Bill C-6 during the proceedings before the Standing Senate Committee on Foreign Affairs and International Trade.

For instance, trade lawyer Barry Appleton said:

If the bill were to deal with fresh water issues as part of an overall strategy, I would say that Bill C-6 is flawed. Rather than create the opportunity to develop some environmentally sustainable comprehensive water policy, this bill has created a mechanism to actually license, in

certain circumstances, water going from Canada to the United States. I am sure that is not the intention; however, under the wording of this bill, it is clearly the effect.

Dr. Howard Mann, another expert in this field, said:

There is a serious risk . . . Once exports begin, the government, federal or provincial, cannot arbitrarily deny further exports . . . You are into the game as soon as you start down that road.

University of Calgary law professor, Nigel Bankes, said:

I think the answer is yes to the question of whether Bill C-6, which gives discretionary power to the Governor-in-Council and also to the regulatory process, be used to licence the export of bulk water from boundary waters. Would removal of waters for irrigation purposes to the United States be allowed in this case if you could show, by an environmental assessment or other means, that it did not affect boundary levels?

Some of my Conservative colleagues, including at that time Senator Murray, a Conservative at that time and still, sought to introduce amendments to Bill C-6 to respond to these concerns but to no avail.

I am pleased to introduce Bill S-225 to finally address the perceived weaknesses in the existing act. It will provide strengthened protection of our fresh water, which is increasingly our most precious resource.

Bill S-225 is short and simply seeks to amend the International Boundary Waters Treaty Act to prohibit the bulk removal of boundary waters from the water basins in which the boundary waters are located. The prohibition applies to all boundary waters as defined in the International Boundary Waters Treaty Act. Limited exceptions to the prohibition for specified uses, such as firefighting, are set out in the act. However, regulation-making authority to specify other exceptions to the prohibition is no longer provided, and that is very important. It is even more important that the bill also requires that certain proposed regulations to the act be laid before each House of Parliament and that those regulations may not be made if either House adopts a motion disapproving the proposed regulations.

Clause 1 amends section 10 of the existing act by defining the phrase "removal of boundary waters in bulk" as opposed to the regulations, where the phrase is currently defined. I have stated that regulations are easily changed while legislation is not. I use the same definition that is currently in the regulations, which is the removal of more than 50,000 litres of water, treated or untreated, per day from boundary waters by any means of diversion, whether by pipeline, canal, tunnel, aqueduct or channel. However, it does not include taking a manufactured product that contains water, such as water and other beverages in bottles or packages, outside the water basin.

Clause 2 amends section 13 of the act and provides the prohibition against the removal of bulk water. It prohibits the removal of boundary waters in bulk, whether through use or diversion, except where the former is "for use in a conveyance, including a vessel, aircraft or train," or, as I mentioned, for "firefighting or humanitarian purposes on a short-term and non-commercial basis."

For these purposes in the application of the treaty,

... the removal of boundary waters in bulk is deemed, given the cumulative effect of such removals, to affect the natural flow or level of the boundary waters on the other side of the international boundary.

Clause 3 addresses the issue of parliamentary participation where, under the existing act, the Governor-in-Council on the recommendation of the minister enjoys wide authority to regulate, for example, by defining any word or expression used in sections 11 to 26 pursuant to paragraph 21(1)(c).

Proposed new section 21(3) of Bill S-225 requires that any such proposed regulation be tabled before each House of Parliament for examination, after which it might be referred to the appropriate committee of that House. Subsequently, the committee may, within 30 sitting days, report to the House that it disapproves of the proposed regulation, in which case a motion to concur with the report shall be put to the House in accordance with the procedures.

Finally, the proposed regulation may be made if no report disapproving the proposed order is presented or if the motion to concur in the report is denied.

It has been suggested by the Department of Foreign Affairs and International Trade that the Statutory Instruments Act already allows Parliament to review regulations. This act only allows the Standing Joint Committee on Scrutiny and Regulations to examine regulations that have already come in force once they are a *fait accompli*. There is no mechanism to compel a regulation changing the meaning of "removal of boundary waters in bulk" to be brought to the attention of Parliament before it is passed. It is not unusual for such a process before this committee to take up to 18 years.

While it is true that the removal of water in bulk is prohibited, it is only to the extent as it is defined in the regulations. The 50,000 litres could become 1 million litres through regulations, without parliamentary overview.

It seems to come down to semantics because section 21(1) allows the Governor-in-Council, on the recommendation of the minister, to make regulations or changes to the present regulations and, thus, the definition of the expression "removal of boundary waters in bulk" may be drastically modified at any time without engaging parliamentarians.

• (1530)

There are other interpretations of the current wording of the International Boundary Waters Treaty Act in dealing with the regulations as well, so Bill S-225 presents a golden opportunity to debate all these issues. It should be considered with an open mind.

Earlier today, I met with officials from the Department of Foreign Affairs and International Trade to discuss the proposed bill. I found their views fascinating, if sometimes confusing, and look forward to hearing them elaborate their concerns when the bill reaches committee stage.

Essentially, these officials state the proposed bill is unnecessary. They reject the premise that the International Boundary Waters Treaty Act as amended in 2001 is flawed. In fact, they argue that it provides "a very high level of protection," to quote from the letter written by Deputy Minister Leonard Edwards. Therefore, they find no need for the amendments I propose.

Here is their reasoning on bulk water issues: The IBWTA does not deal with the issue of bulk water exports at all. Instead, it prohibits the removal of bulk water, subject to certain exceptions, from boundary basins within Canada. Since such removals are prohibited, they argue, the issue of exports does not arise. Again quoting from the deputy minister's letter, "This approach was taken rather than an export ban specifically to ensure that water would not trigger NAFTA requirements."

This treatment of water as a resource in its natural state rather than a tradable commodity is widely recognized by world trade regulations in other jurisdictions, they argue. It is my understanding that this is correct to the present time, but it is subject to challenge.

The IBWTA applies only to basins that comprise the boundary between Canada and the U.S., they argue. This is confusing to me, since the act applies to the Canadian portion of the Great Lakes-St. Lawrence Basin, the Hudson Bay Basin and the Saint John-St. Croix Basin. I was unaware that the international boundary runs through Hudson Bay, but officials explained that the Lake of the Woods, which is bisected by the international boundary, is deemed to be included in the Hudson Bay Basin. However, this reasoning does not apply to Lake Champlain, which the Canadians say is a boundary water and the Americans say is a river. You can see the ambiguities caused by the present legislation.

International rivers, such as the Columbia and Kootenay in my home province of B.C., are not covered by the IBWTA because they are not boundary waters but transboundary waters. They are, in fact, bulk water exporters themselves because they flow between the two countries. These transboundary waters are covered by other international treaties, officials say.

The provinces have the jurisdiction over water basins within their boundaries, and all provinces have legislation dealing with bulk water removal with the exception of New Brunswick, which has a policy in place banning bulk water exports, they argue, and plans to introduce legislation, which is what they said several years ago.

My concerns in regard to the wide discretionary powers of the minister under the IBWTA to licence exemptions to ban the removal of bulk water are unfounded, officials say, because such licences must be within the spirit of the act. However, the spirit of the act provides for licensing, I counter-argue.

My suggestion is that the definition of "removal of boundary waters in bulk" should be written into the legislation rather than left to regulations, which can be changed without recourse to Parliament, but officials say this would prevent the definition to be altered or to reflect changing technology, such as the use of bladders to hold water, and to allow the government to respond quickly to possible transgressions in the law. In fact, they could



add a clear and unspoken reason, which is that officials do not like laws by parliamentarians; they prefer regulations by officials. In fact, I reject their rejection because legislation can be passed very quickly, should the need arise, and the regulatory process can take months or years, as we have seen.

Finally, they suggest that the necessary oversight of regulations is already in place through the existing Statutory Instruments Act. To me, this is an alarming red flag because, as I have mentioned, senators familiar with this process know it takes place after the fact and can take years to conclude. There is no standard timeline.

Officials argue that the department, six years after the original amendments were made, is now taking steps to strengthen the further licensing regime by the IBWTA to the "Law List Regulations" made under the Canadian Environmental Assessment Act. This would mean that any project requiring a licence under the International Boundary Waters Treaty Act would automatically trigger an environmental assessment when certain standards have been met. Those who have been the subject of this process will find it unpredictable at best.

In fact, there are several precedents for parliamentary oversight of regulations made pursuant to an act. It is this kind of parliamentary oversight that we are requesting in Bill S-225. Such regulations would deal with the key issues of what constitutes a use, an obstruction, diversion or work for the purposes of this act, the definition of any word or expression used in sections 11 to 26 that is not defined in the act, and the exceptions to the application of subsections 11(1) and 12(1).

I have asked the officials to address the concern of many Canadians by strengthening the International Boundary Waters Treaty Act by ensuring that future Parliaments, representing all Canadians, would have oversight of any regulations and changes to regulations that could open the door to bulk water exports now and in the future. Canadians want to be part of that debate, but they are excluded from it under existing law.

To show honourable senators the complexity of this issue, I will quote from John Manley, who was the Minister of Foreign Affairs when the original amendment to the International Boundary Waters Act was made back in 2001. He said:

... any credible policy approach to the issue of bulk water removal must address two important elements. First, the management of Canadian waters involves multiple jurisdictions. Second, any approach should take into consideration the many factors, man-made and natural, which exert significant stresses on our water resources.

To pretend that one government can solve the issue with a wave of the legislative wand, or that the issue may be simply reduced to one aspect, such as "water export", in the words of some critics, is unrealistic, ineffective and undermines the goal we all share.

Except it is not very clear under this legislation what the goal is that we all share.

I have concluded that honourable senators should support this bill and give it second reading so we can refer it to committee for a detailed examination of the issue raised in this speech.

[ Senator Carney ]

**Hon. Jeremiah S. Grafstein:** Would the honourable senator allow a question or two?

**Senator Carney:** Certainly.

**Senator Grafstein:** Honourable senators, I congratulate the senator on this comprehensive look at this very important subject matter. I agree with her that there is tremendous confusion and overlapping responsibilities in legislation both at the federal and provincial levels. I commend her for this speech, and I think we should get the bill to committee as soon as possible so we can have an intensive exploration of what I consider to be a confusing and muddled area when it comes to the export of bulk weather. I agree with her in principle.

Having said that, this is only one side the equation, and the other side of the equation happens to be the Americans. When we talk about a border and a treaty, we are talking about having two parties to tango. The question is: How can my honourable friend be satisfied that if this measure is adopted a similar measure or similar procedure would be available in the United States to ensure that there is no leakage in the objective we all seek, which is to ensure that bulk water is not allowed without federal or at least governmental approval?

**Senator Carney:** Honourable senators, I cannot do that. As Minister Manley said in his original speech on second reading, there are something like eight Great Lake states and Ontario and Quebec involved in some of these issues, and we simply do not know. The answers of the bureaucrats that the other issues have been dealt with in other international treaties, such as the Colombia River act, do not give me much comfort because we are not really familiar with all of those.

• (1540)

I believe that an examination of my amendment would give us an opportunity to do a full overview of what our treaties are covering fresh water, boundary waters, transborder water, and even your interest in domestic fresh water so that we can find out what the protections are. There is little point in us having removal bans on our side of the border, say in the case of the Great Lakes, if there is not parallel legislation in the United States. The officials tell me that some states have reached agreement on parallel legislation; others have not. However, that is not known to the general public. This is an opportunity to explore this issue before it becomes a crisis.

**Senator Grafstein:** Honourable senators, let us assume that the bill was passed, the federal government was committed and we sorted out the jurisdictional responsibilities; that is, it was clear cut that there was a prohibition from the Canadian side on water. At the current time, my understanding is that at least one major water bottler comes to Canada, gets a pipe, draws out water, and then cleanses it or mineralizes it, or whatever it does, and then packages it in water that we use here in the Senate from time to time.

Let us assume for the moment that we are not successful in the overall objective of providing a safe and tight system to prevent bulk exports. How would this bill stop that activity, assuming the Americans would not agree? I am talking here about on our side of the border.

**Senator Carney:** Honourable senators, as I said, the FTA does permit bottled water to cross the borders, so it is not considered a bulk water removal. Again, one of my problems is that bulk water is not defined anywhere. That is one of the critical issues.

There is no intent in my bill to stop transborder shipments of bottled water for human consumption. However, I do want to ensure that any regulations which go into effect which licence bulk water removals are scrutinized by Parliament to ensure that such removals are within the intent of this act.

On motion of Senator Segal, debate adjourned.

## INCOME TAX ACT

### BILL TO AMEND—THIRD READING

**Hon. David Tkachuk** moved third reading of Bill C-294, to amend the Income Tax Act (sports and recreation programs).—(*Honourable Senator Nancy Ruth*)

He said: Honourable senators, this bill has been around in one form or another for several parliamentary sessions. I wish to thank the members of the committee and, in particular, the committee chair, Senator Day, and the deputy chair, Senator Nancy Ruth, for expeditiously moving this proposed legislation through the committee. I also thank Senator Mahovlich, along with the member of Parliament for Prince Albert, Brian Fitzpatrick, for being so tough and focused on this endeavour. Bill C-294 is a fairly innocuous bill, but one that will have a salutary impact on many of our young athletes, both men and women.

To my mind, this bill rights a wrong that was done when the government decided to tax allowances for room and board. I am sure all young athletes will be grateful for the good work done by honourable senators in this place.

**The Hon. the Speaker** *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read the third time and passed.

## IMMIGRATION AND REFUGEE PROTECTION ACT

### BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

**Hon. Yoine Goldstein** moved second reading of Bill C-280, to amend the Immigration and Refugee Protection Act (coming into force of sections 110, 111 and 171).—(*Honourable Senator Comeau*)

He said: Honourable senators, Bill C-280, to amend the Immigration and Refugee Protection Act, is extraordinarily simple. It contains only one paragraph. That paragraph envisages the coming into force of sections 110, 111 and 171 of the Immigration and Refugee Protection Act. These provisions establish a refugee appeal division, a new division within the Immigration and Refugee Board. These sections of the Immigration and Refugee Protection Act were intended to create a refugee appeal division but have never been brought into force and the new appeal mechanism has never been established.

Behind this apparent inactivity by a number of governments, including, I must say to my regret, Liberal governments, lays a rather complex tale. It is said that politics makes strange bedfellows. Never was the truth of that dictum clearer than in this instance, because I find myself sponsoring in this chamber a private member's bill that was introduced by the Bloc Québécois in the other place. I find myself making little effort to explain inactivity on the part of previous Liberal governments, but I am assuaged by the fact that I am also condemning inactivity on the part of this government.

I have spoken to two previous ministers of immigration and to two former adjudicators who all asserted that the entire system with respect to refugees and refugee admission and determination should be changed, but, regrettably, that will not happen any time soon. Honourable senators, let us make the changes we can make, — although admittedly this is not the ideal solution.

Here is the rather complex story. In 1951, the United Nations adopted the UN Convention relating to the Status of Refugees. Canada is a party to this convention. In accordance therewith, Canada cannot directly or indirectly return refugees to a country where they will be persecuted. Article 33 of the United Nations convention sets out the responsibilities of states for protecting refugees as follows:

1. No Contracting State shall expel or return. . . a refugee in any manner whatsoever to frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

• (1550)

As sensitive as a refugee issue always is, it is rendered all the more sensitive where the refugee in question lands in a situation where his or her freedom would be threatened, were he or she to be returned to another country, generally, the country of origin, but not always.

To its credit, Canada has set up an Immigration and Refugee Board pursuant to the Immigration and Refugee Protection Act, which received Royal Assent in November 2001 and came into force on June 28, 2002. That statute, which was then a new piece of legislation, was intended to streamline the refugee claimant determination process.

Faced with anywhere from 23,000 to 38,000 annual requests for refugee status and the asylum that comes with it, the Refugee Protection Division was overloaded with resulting unacceptable delays in the treatment of refugee claims.

That was a situation which was clearly not tolerable; delays in the treatment of claims create a significant hardship to refugee claimants and their families, and although Canada's treatment of refugee requests during the Second World War was abominable, in more recent years the refugee claims determination process has improved considerably to create a good, if not stellar, record with respect to treatment of refugee claims.

The intention of the 2001 statute was to streamline the process. Under the Immigration Act of 1985, refugee claims were heard by two-member panels. In the event of a split decision, the decision favourable to the refugee claimant was, in most cases, deemed to be the decision of the board.



The streamlining envisaged by the new statute was that thenceforth the hearing would take place not before two members, but before a single member, thereby theoretically doubling the number of claims that could be heard in a given period of time by the same number of personnel. However, because of the increased possibility of error, as only one board member was hearing each claim, the statute provided for the creation of a Refugee Appeal Division, where decisions could be reviewed and, in appropriate circumstances, decisions could be reversed for the benefit of the refugee claimant.

While the reduction of the members of a panel from two to one was immediately proclaimed and put into effect, the safeguard provisions, establishing an appeal division which would compensate for occasional errors, was never proclaimed. Responding to questions in this respect at the beginning of 2004, former Immigration Minister Judy Sgro said the following:

It's important that people who seek protection in our country receive it as quickly as possible. To introduce at this particular time the appeal system that you were referring to would have completely, I think, brought the system to a halt.

Precisely a year later, then Minister of Immigration Mr. Joseph Volpe said:

It takes too long for decisions to be made and too long for decisions, once they are made, to have an effect. Simply by adding another layer of review or appeal to what we already have will do nothing to address the shortcoming, in fact, it may make it worse. My decision therefore is not to implement the Refugee Appeal Division.

With great respect to both those ministers, as well as to the current minister, who similarly refuses to implement the appeal division, none of them have the right or had the right to ignore the will of Parliament and, in any event, their reasoning, with respect, is faulty.

When Bill C-11, the bill which set up the Refugee Appeal Division, was passed, Peter Showler, then the chair of the Immigration and Refugee Board, gave the following testimony:

In contrast to the present model, where claims are normally heard by two-member panels, the vast majority of protection decisions will be made by a single member. Single-member panels are a far more efficient means of determining claims. It is true that claimants will no longer enjoy the benefit of the doubt currently accorded them with two-member panels, and I think that should be noted. However, any perceived disadvantage is more than offset by the creation of the refugee appeal division, the RAD, where all refused claimants and the minister have a right of appeal . . .

The government of the day reduced the board's compensation from two to one on the promise and undertaking that a Refugee Appeal Division would be established. Indeed, the statute did establish that division, but that part of the statute was never proclaimed in force.

Honourable senators, this lack of proclamation breaks faith with the people of Canada and ignores the will of Parliament. While refugee claimants who do not succeed with their claims have the right to seek judicial review by the Trial Division of the Federal Court, that review cannot substitute a court decision for the refugee board decision. All it can do is send the decision back for reconsideration, again, by a single-member board. Honourable senators, that is unjust, and this bill seeks to correct that injustice. If we cannot provide refugee claimants with every reasonable possibility of asserting refugee status, and if de facto refugee claimants are given a single kick at the can, a single hearing before a single adjudicator, with no further recourse from a practical perspective, our system is condemning some legitimate refugees to torture and to death.

Canada should never countenance injustice. I respectfully urge honourable senators to support this bill.

On motion of Senator Comeau, debate adjourned.

### STUDY ON RECENT REPORTS AND ACTION PLAN CONCERNING DRINKING WATER IN FIRST NATIONS' COMMUNITIES

#### REPORT OF ABORIGINAL PEOPLES COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator St. Germain, P.C., seconded by the Honourable Senator Gustafson, for the adoption of the eighth report of the Standing Senate Committee on Aboriginal Peoples entitled: *Safe Drinking Water for First Nations*, tabled in the Senate on May 31, 2007.—(Honourable Senator Tardif)

**Hon. Jeremiah S. Grafstein:** Honourable senators, I rise to comment on this report, and I would like to commend the chairman and the deputy chairman of the Standing Senate Committee on Aboriginal Peoples for proceeding with this study, the report of which is entitled, *Safe Drinking Water for First Nations*.

The report is frightening and chilling, but it is not the first of such reports. Reports have piled up that address the horrible treatment, lack of concern and negligent omission of duties to deal with safe drinking water in Aboriginal communities.

Safe drinking water is not just an issue for the Aboriginal communities, honourable senators. As I pointed out previously in my bill, which is now in the other place seeking to amend the Food and Drugs Act by adding clean drinking water, this situation has been ongoing for some time. It is only now that the issue of clean drinking water, as it affects our health system, is coming to a port of convergence.

Seven years after the horrible scandal of Walkerton, seven years after legislation and money and so on, the provincial government in Ontario decided they would do something simple that could have been done years ago, namely, test for lead in water systems. They discovered, to their absolute horror, that the drinking water at Queen's Park, the legislature, was infected with lead. Lead-infected water is cancerous. When people concern themselves about the rise of cancer in this country, whether it is

breast cancer, internal cancers of any nature or prostate cancers, one of the fundamentals is lead. After seven years of regulation, promises and so on, we find lead in the provincial legislature.

I do not want to point the finger at just the Aboriginal communities or the department or ministry responsible for the scandal in my own province. Drinking water is a problem across Canada: British Columbia, Alberta, Saskatchewan, Manitoba, Quebec and the Maritimes.

Last week Senator Nolin repeated that there is a constitutional barrier to cleaning up this problem; there is not. There is no question whatsoever when it comes to the Aboriginal communities that the federal government has clear, direct and undiluted responsibility. However, when I read this report, it chills my spine. The report states:

In 1995, an assessment carried out by the Department of Indian Affairs and Northern Development (DIAND) and Health Canada found that about 25 per cent of water systems on-reserve posed potential health and safety risks to First Nations people in the affected communities.

• (1600)

The report goes on to state:

In 2001, a follow-up assessment revealed that almost three quarters of drinking water systems on-reserve posed significant risk. Most recently, in March 2007, the Department of Indian Affairs and Northern Development released a progress report on First Nations drinking water indicating that the water systems of 97 First Nations communities are classified as high risk.

There is an interesting debate in the report about regulating, paying for infrastructure with the money from regulation, diverting money from infrastructure. In the end, the report says let us have another study.

Honourable senators, I do not think we have to study this issue any longer. We need legislation. I urge every senator to read this report. It is a chilling report. On the one hand, Health Canada says that every Canadian citizen should, as a question of health, drink eight glasses of water every day, but in the Aboriginal communities, if they drank it, they would be ill.

Who is responsible here? We are a house of regions. I have raised this issue over and over again. I have another bill that I hope we will refer to committee. It deals with upstream resources to preserve water, and it is delayed here again. I will persist though and we will go on. In the meantime, children will die, women will die and men will die; if they do not die, they will be injured. Senator Keon knows what I am speaking about. There is a direct connection between lead and cancer that is unquestioned. That is not the only chemical in the Aboriginal community. That is just one of many chemicals.

The report's first recommendation reads as follows:

That the Department of Indian Affairs and Northern Development provide for a professional audit of water system facilities, as well as the independent needs assessment, with First Nations representation, of both the

physical assets and human resource needs of individual First Nations communities in relation to the delivery of safe drinking water prior to the March 2008 expiration of the First Nations Water Management Strategy —

— which I think is a joke —

— That, upon completion of the independent needs assessment, the Department dedicate the necessary funds to provide for all identified resource needs of First Nations communities in relation to the delivery of safe drinking water;

That a comprehensive plan for the allocation of monies from said funds be completed by June 2008; and

That, upon completion of the comprehensive plan, the Department provide a copy to this Committee and appear before it to report on its contents.

Good. On the face of it, that recommendation is lovely, but it will not do the job. We have done this over and over again in this chamber, and it will not do the job.

Therefore, what is the suggestion? I do not think any senator should stand and criticize another committee without coming up with at least an alternative solution. Before I offer my suggestion to the committee, though, I will read out the names of the committee members.

The chairman is the Honourable Gerry St. Germain. The deputy chairman is the Honourable Nick Sibbeston. Senator Larry Campbell, Senator Lillian Dyck, Senator Aurélien Gill, Senator Leonard Gustafson, Senator Elizabeth Hubley, Senator Sandra Lovelace Nicholas, Senator Robert Peterson, Senator Hugh Segal and Senator Charlie Watt are all members of the Aboriginal Committee. As well, there are *ex officio* members: the government leader, Senator Marjory LeBreton or, in her place, Senator Gerald Comeau; Senator Céline Hervieux-Payette or, in her place, Senator Claudette Tardif. In addition to that, Senator Lorna Milne has been a most honourable part-time member of the committee.

Everyone has been involved with this particular report. Here is what I think we should do: pass a private member's bill; no more reports. Put a private member's bill on the floor of the Senate and I will support it. The bill should be very simple. Account for your negligence for the last five years and tell us why you cannot do it tomorrow.

**Senator Cools:** Today.

**Senator Grafstein:** Today.

I commend all senators for participating in this report and I will support it. However, it is just another report, and it will not at all advance the existing crisis in our Aboriginal communities. I, for one, do not want to leave this chamber, leave this Senate, and have on my conscience that I at any time contributed to either the death or the maiming of a woman, a child, or a person in Canada. If we do not move, I can tell you that we will all be culpable.

**Hon. Roméo Antonius Dallaire:** Will the senator accept a question?



**Senator Grafstein:** Yes.

**Senator Dallaire:** My daughter is in South Africa working with an NGO that is bringing clean water to a whole bunch of villages in the southwest. The NGO is funded by a variety of sources in Canada, many businesses and other private foundations that are providing money to meet a millennium objective of bringing clean water to the developing world. We signed on to moving a significant capability into bringing clean water to the developing world by 2015.

We also know that CIDA is pumping a whole bunch of money into doing exactly that same thing in the developing world. Given this committee report and the colonial perspective in which we still view our First Nations, why not have CIDA send money into the NGO community and have them sort out the problem? Should we not, in fact, get Canadian NGOs and the Canadian population far more involved in the state of health and the ability of Aboriginal communities to survive and not simply count on governments that keep passing the buck?

**Senator Grafstein:** I agree with the honourable senator. He echoes my own views. When I was able to convince the Senate to move to third reading my bill to amend the Food and Drugs Act, that was exactly my argument. In Canada we ship portable systems not just to Africa through CIDA but to Afghanistan. The army does it. They use the engineers to set up the portable systems. I wonder why in our brilliance we could not do that for our Aboriginal communities here in Canada. CIDA has billions of dollars.

This is another outrageous thing we do. We are prepared to help poor and impoverished developing nations, but we have within this country two countries. There are two Canadas. There is the Canada of Toronto and Montreal and Vancouver, the urban communities in which we all participate, and then there are the Aboriginal communities. That is the second Canada. There is the rich Canada and there is the underdeveloped Canada. There is no reason why we cannot take the money from there and move it over to there, because it is only a question of money and will.

Let me make it even easier. I look at our great colleague and brilliant friend, Senator Keon. One of the great problems in Canada is the Canada Health Act and the funding of that act. The problem is that our safety net is moving quickly forward and it is almost subsuming the largest chunk of our federal, provincial, and even municipal budgets. Why would we not want to prevent health problems caused by a lack of clean drinking water? That would save billions of dollars.

Professor Schindler, who I asked to assist me with my research, said we could save billions of dollars a year if we had clean drinking water in every community across Canada, which we do not have. *A fortiori*, the argument is even stronger when it applies to Aboriginal communities.

This situation is a scandal, a disgrace. Unless this Senate rises with one mighty voice and says enough is enough, it will not change. Senator Dallaire will be gone, I will be gone and Senator Keon will be gone, but the Aboriginal community will still be sick and weak and tired and deformed because of our negligence.

**Senator Dallaire:** The instrument that the honourable senator speaks of that the engineers use will provide clean water for a population of approximately 1,000 to 1,500 on a continuous basis, and it is a stand-alone system. It works as long as it has a supply of diesel fuel and a bit of maintenance.

• (1610)

We could buy them at \$1 million each, the upper end of the scale, install them in villages across the country and ensure there is a good maintenance contract. Why can we not move to the military and have them gain experience by doing it and taking on a responsibility like that, like the Corps of Engineers does on reserves in the United States?

**Senator Grafstein:** The honourable senator has echoed my comments in this chamber many times. My hope is that the committee might consider how easy it would be to set up these new systems. We are talking about new technology that is easy to set up, easy to train and easy to implement to save lives and make people healthy in Aboriginal communities. It is easy.

I say to myself: Why have we not recommended it? Why has minister after minister not done it? We have heard every Prime Minister in the last 20 or 30 years say that they will clean up the drinking water problem in Aboriginal communities. Senator Watt and Senator Adams know that and are sick and tired of listening to it. They have heard it over and over again.

We had one great Prime Minister — my great Prime Minister — Jean Chrétien. He was minister of Aboriginal affairs for nine years, yet no progress. When he became Prime Minister, he promised. He killed my bill and then promised it in the next budget; that promise was not fulfilled. Then the next Prime Minister promised it in the next budget. This government has promised it in this budget; still no progress.

What does it take? It is simple. It is easy to do. It is easy to make Aboriginal communities, at this level at least, healthy and well.

I apologize, honourable senators. I get emotionally upset about this issue because it has been seven long years and I do not see any progress. I see my colleagues nodding in agreement.

I see my time is almost up and would ask leave to continue.

**The Hon. the Speaker:** Senator Grafstein is asking leave of the Senate to continue. Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

**Hon. Gerry St. Germain:** Honourable senators, I was in a press conference that brings good news to this place, because the government just officially announced that it is implementing most of the recommendations in negotiations on specific claims. That is a tribute to all senators. I have worked closely with seven senators from the opposition side, and the results have been phenomenal. The results are there. The government, by 2008, will have an independent body in place.

This announcement goes to the heart and soul of what the honourable senator is talking about with respect to water. I agree with him. Safe, potable drinking water for our Aboriginal peoples should not even be a question.

I am encouraged by the statements of Senator Dallaire that the technology is available. I am sure the honourable senator is aware of it.

I want all senators to rest assured that if we do our work diligently and as a team, we can get results. This announcement is living proof of it. Why should water not be next? Minister Prentice has taken the water issue seriously. He has improved the plight of those affected.

Senator Grafstein is correct; government after government has languished on the sidelines and watched this situation deteriorate, which is unacceptable. I have said it before: We will never be a great country. As great as we are today in the world, we will never be a truly great country until we have reconciled the problems that exist with our First Nations people.

I would like to ask the honourable senator: Is this new technology being utilized at the present time? I apologize that I could not be in the chamber during his speech because I was at the press conference. I advised him earlier I would read his speech, but I would like to ask him that question now.

**Senator Grafstein:** The honourable senator sent me a note, and I appreciate that. The senator advised me that he would be elsewhere. I would not have proceeded without his presence, but he allowed me to move on with the debate.

Senator Dallaire knows from his experience, and I know from my anecdotal experience, that cost-efficient technology could be in place, easily managed and transported. We do it in Afghanistan. The Americans do it in Iraq. We do it in Africa. The technology is available from Germany and Canada.

**Senator Corbin:** They did it after the tsunami.

**Senator Grafstein:** We have seen it done across the world.

Perhaps the honourable senator can answer this question: Why is this technology not used to help the Aboriginal communities? Why is there not a war for water? Not a war against poverty: a war to bring clean drinking water to our Aboriginal peoples. I am with the honourable senator: Keep punching and I will try to keep punching as well.

**Senator St. Germain:** It is not about us. It is about our First Nations people, and it is about time we got the job done. I can guarantee that if we all work together, if we produce focused reports that people can act on — not a helter-skelter or shotgun approach but more of a rifle approach — it will happen.

I want to thank honourable senators, especially Senator Grafstein for his particular interest in Aboriginal water issues, the studies he has done, and the integrity he has brought to this debate by offering a non-partisan view.

**Hon. Wilbert J. Keon:** Honourable senators, this is not new technology. Reverse osmosis has been around for 25 or 30 years, and I do not know what the barrier has been.

Honourable senators, we need this bill. Just because other things are happening does not mean it is not necessary.

The Public Health Agency of Canada will table its first annual report this year. It has to report to Parliament once a year and has to report about public health problems, and this is public health problem number one.

The honourable senator could continue his interest, and I certainly will too. The honourable senator may know I am looking at population health, and clean water is one of the specific issues. We should be sure that the Public Health Agency of Canada reports to Parliament once a year on any location in Canada where the drinking water is not potable.

**Senator Grafstein:** I examined an interesting approach to see if I could get public officials — elected, appointed and bureaucrats — to fulfill their responsibilities.

Harry Truman was asked the question: What is the job of the President of the United States? In Truman's immortal words: My job is to get people to do the work that they were hired to do in the first place.

Let us start with public officials and the Minister of Health. I am being non-partisan when I say that, in that it applies to every Minister of Health, federal and provincial. The Minister of Health, under the Canada Health Act, has responsibility for public health in this country. This bill will help. Why did ministers and deputy ministers responsible for public health not take this problem seriously, either at the health level or the ministry responsible for Aboriginal affairs? It was because their feet were not put to the fire.

Had my bill not been passed by the Senate, I was contemplating a class action against the Minister of Health and the officials who had reports on their desks and refused to publicize them because they were critical of the situation. I wanted to bring civil and criminal law to bear against negligent public conduct. Senator Baker is not here, but there is some question as to whether that would have a basis in law. I believe that it would have a basis in law. That was going to be my last gasp before I left the Senate, had my bill not passed.

• (1620)

Public officials are supposed to believe in responsible government, whether they are elected or bureaucrats. I do not believe they do when it comes to this matter. All we can do is continue to prod them until they fulfill the responsibilities that they were elected and appointed to do.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** On a point of order. Are we still on debate? My view, at this point, is that the speaker's watch must be awfully out of order.

**The Hon. the Speaker:** Things are perfectly in order. I do have a new watch.

We are on the debate. Senator Keon initiated the debate. We are on comments and questions on Senator Keon's intervention. I now recognize Senator St. Germain, who has a comment and question of Senator Keon.

**Senator St. Germain:** Honourable senators, the question is to Senator Keon. In the discussions that have been taking place, one of the huge challenges with the 630 First Nations that we have in



the country is the capacity to supervise the facilities of which Senator Dallaire and Senator Grafstein spoke. The people must have the capacity to run these particular facilities and to run them on a 24-hour basis. The Circuit Rider Training Program trains operators to run these water facilities. One of the greatest challenges at the moment is to have properly trained people on the ground in these often remote areas.

Does the honourable senator have any suggestions as to how to expedite the process of educating and putting human resources on the ground to facilitate this capacity void that exists in these reserve communities? This issue is something that we studied closely during the course of our study.

This study brought in officials, the expert panel, the Auditor General and various other groups that had been directed by the minister to find out what the problem was. Harry S. Truman once said that there are no great men, only ordinary men, ordinary men who rise to great occasions.

We need a man or a woman like that at this time. There is no question that Senator Andreychuk ranks among the top.

Perhaps Senator Keon could offer some insight as to how we can deal with the aspect of capacity.

**Senator Keon:** Honourable senators, in the hearings we have had so far on population health, which deals with the issue of the First Nations, the Metis and Inuit, there is a strong desire for them to control their own destiny, their own affairs on the ground at the local level.

The matter that Senator Dallaire spoke about is not rocket science. Anyone can run those machines. It is incumbent upon the Public Health Agency of Canada, which has the responsibility to Aboriginal peoples, to see that their health is not threatened. It is incumbent upon that agency — I will speak to them about it; I know most of them quite well — to institute an inspection program. The federal government, the body responsible for the health of First Nations, should put this equipment in place. It is peanuts.

**Senator Dallaire:** There is nothing wrong with our country using assets that are national. The Canadian army is a national asset. We build those things to be, as I said earlier on, "soldier-proof." That means that no one could destroy it. The maintenance has to be sound and simple and the training to achieve and maintain it is also quite simple. We cannot spend a lot of time doing this. Why not have a Canadian corps of engineers that has a national mandate to assist in the infrastructure? I am sure that we can work out the deals with private industry so they are not stepping on someone else's shoulders. That gives depth to the military to do the jobs overseas and gives significance to the military in this country to assist in continuing events. Would the honourable senator not think that is an option?

**Senator Keon:** Of course, I do not have to tell the honourable senator what the American army has done; they are responsible for the highway and bridge system in America. They do all kinds of things. I think it would be great for the Canadian army to do more of that because they have to do it anyway when they go abroad.

**The Hon. the Speaker:** It was moved by Senator St. Germain, seconded by Senator Gustafson, that this report be adopted now. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

## STUDY ON NATIONAL SECURITY POLICY

### AMENDED REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the consideration of the fourth report (interim), as amended, of the Standing Senate Committee on National Security and Defence, entitled: *Managing Turmoil, The Need to Upgrade Canadian Foreign Aid and Military Strength to Deal with Massive Change*, tabled in the Senate on November 21, 2006.—(*Honourable Senator Banks*)

**Hon. Wilfred P. Moore:** This is an important report and I see the item is at day 15 in the *Order Paper*. Others may want to speak to the matter, I believe Senator Banks does, so I will adjourn the matter in his name in order to rewind the clock.

**The Hon. the Speaker:** Is that agreed, honourable senators?

**Hon. Senators:** Agreed.

On motion of Senator Moore, for Senator Banks, debate adjourned.

[*Translation*]

## QUESTION OF PRIVILEGE

### MOTION TO REFER TO STANDING COMMITTEE ON RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Tkachuk, seconded by the Honourable Senator Angus,

That all matters relating to this question of privilege, including the issues raised by the timing and process of the May 15, 2007 meeting of the Standing Senate Committee on Energy, the Environment and Natural Resources and their effect on the rights and privileges of Senators, be referred to the Standing Committee on Rules, Procedures and the Rights of Parliament for investigation and report; and

That the Committee consider both the written and oral record of the proceedings.—(*Honourable Senator Comeau*)

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I would like to join the debate on Senator Tkachuk's motion to refer his question of privilege to the Standing Committee on Rules, Procedures and the Rights of Parliament for investigation and report.

If I may, I would first like to thank my hon. colleagues, who were kind enough to give me the weekend to reflect on the matter. As you will recall, I moved to adjourn the debate on Thursday of last week and we did not know if the motion would be adopted. As honourable senators know, a motion to adjourn the debate is not subject to debate or amendments, and the matter must be settled immediately. This is pursuant to the *Rules of the Senate* and it is therefore up to the Senate to decide if the motion to adjourn will be adopted or defeated.

It is this kind of motion that appears to be at the root of the current situation. I see no need to go over the entire issue once again, however, I will point out that the recorded division on May 15, 2007, was the last item listed on that day's Order Paper.

To get to the topic before us, the fact remains that senators cannot be in two places at once. Our work in this chamber depends on the senators being right here. We ask that they be present in the chamber. I do not plan on going into detail, but I would like to say that sometimes this requirement is a challenge to the whips and leaders of both sides.

If senators now must leave early to protect their right to participate in committee meetings, the Senate will suffer.

It is up to each one of us to ensure that this does not happen. We must ensure this not only for those sitting here today, but also for our successors.

Can we really do nothing and accept that this chamber of sober second thought, defender of minority rights, is about to abdicate its role and *raison d'être* in the legislative process?

• (1630)

If we fail to defend the privileges of one senator today, then senators will no longer be able to trust the Senate to make the right decision rather than the most expedient one. It will mean denying everything we stand for.

Honourable senators, a speaker seldom rules that a *prima facie* case of privilege exists. Consequently, the burden of proof shifts.

It is up to those who are opposed to this motion to prove that this is not a question of privilege.

They must explain the concept of privilege and tell us that it does not apply to this particular case and that the circumstances do not constitute a breach of privilege.

They might say that, in their opinion, committee proceedings take precedence over the work of this chamber and perhaps cite past speakers' rulings to prove their point. But I doubt they would find any.

They might also say that it is not unreasonable to deprive senators of their right to take part in committee work. But I doubt they could convince this chamber.

Honourable senators, it is not enough to say that the rules were observed. We all agree that the rules were observed. Nevertheless, there was still a breach of privilege. The implication is that there

are shortcomings either in the rules or in their application. This determination naturally falls within the mandate of the Standing Committee on Rules, Procedures and the Rights of Parliament.

The motion asks the Senate to refer this question of privilege to the Committee for investigation and report. It is that simple.

I know that the senators who are directly concerned in this matter — Senators Cochrane, Tkachuk and Angus — believe that the Standing Committee on Rules, Procedures and the Rights of Parliament can and should recommend that the May 15 proceedings of the Standing Senate Committee on Energy, the Environment and Natural Resources be declared null and void. They also believe that Bill C-288 should be referred to committee for a proper clause-by-clause review, with both sides represented. Lastly, Senator Angus is proposing that the Senate go into Committee of the Whole to conduct a detailed study of this bill.

These are all possibilities this chamber could choose, but the Standing Committee on Rules, Procedures and the Rights of Parliament could not do the same. The committee can only recommend one of these possibilities or even other options to the chamber. But that is where its authority ends. It can only make a recommendation. Those who suggested that there is a conspiracy to order the Standing Committee on Rules, Procedures and the Rights of Parliament to apply these provisions are seeing a non-existent plot that would be impossible to pull off.

Need I remind my honourable colleagues that the great Liberal majority in this chamber is also found in all the committees, including the Standing Committee on Rules, Procedures and the Rights of Parliament? There are very few ways for us in the minority to force anything on the majority.

Honourable senators, something very serious has happened that affects the very functioning of this chamber and the functioning of our committees. We cannot just dismiss it, claim it is for the best, act as if nothing happened and hope that everything will return to normal.

People in a minority situation always have a better sense of the issues than the members of the majority do. We have a problem and it has to be resolved.

Honourable senators, majorities come and go. Are you really sure you want to create a precedent for our successors? What we do today will be used as a reference in the future. I hope we can raise the bar high enough and that it is not too late.

As Senators Banks and Carstairs have pointed out, it is quite possible that in the past, committees began their deliberations a little earlier. But I doubt that things ever unfolded the way they did in the case before us today or with the consequences we are experiencing.

Honourable senators, privilege goes well beyond the rules. If there appears to be a conflict between the two, then privilege must prevail. I am of the opinion that there was a breach of privilege. Even if you do not entirely agree, I believe we must at least give the Standing Committee on Rules, Procedures and the Rights of Parliament the mandate to look at the issues surrounding this matter.



That is why I encourage you to reflect very carefully on solutions that could prevent these types of problems in the future and allow us to have a Senate and committees that work well. I encourage you to proceed with the future referral of this motion to the Committee on Rules, Procedures and the Rights of Parliament for study and recommendations. I thank you for your attention and invite you to reflect at length before making a final decision.

On motion of Senator Cowan, debate adjourned.

[English]

## THE SENATE

### MOTION TO URGE CONTINUED DIALOGUE BETWEEN PEOPLE'S REPUBLIC OF CHINA AND THE DALAI LAMA—MOTION IN AMENDMENT— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Andreychuk:

That the Senate urge the Government of the People's Republic of China and the Dalai Lama, notwithstanding their differences on Tibet's historical relationship with China, to continue their dialogue in a forward-looking manner that will lead to pragmatic solutions that respect the Chinese constitutional framework, the territorial integrity of China and fulfill the aspirations of the Tibetan people for a unified and genuinely autonomous Tibet;

And on the motion in amendment of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Corbin, that the motion be not now adopted but that it be amended immediately following the word "of" in the first line by eliminating all the words in the rest of the motion and by replacing them with the following:

"Canada and in particular the Foreign Affairs Minister to have discussions with the Foreign Minister of the People's Republic of China regarding the Dalai Lama and the aspirations of the Tibetan people."—(*Honourable Senator Di Nino*)

**Hon. Consiglio Di Nino:** Honourable senators, I have taken some time to reflect on the amendment made by Senator Carstairs. I would like to thank her for activating the debate on this motion.

Like Senator Prud'homme, I, too, have strong feelings about this issue. Let me begin by saying that I believe strongly in the proposition that we can and indeed must speak out against injustices and wrongdoings by whomever they are perpetrated and wherever they may occur.

Honourable senators, the world has had and, sadly, still has greedy and power-hungry tyrants, bullies and despots who prey on defenceless and weaker members of society and who mostly rule by fear and repressive methods. Justice and the rule of law in many places are either nonexistent or too weak to be effective.

The victims of these injustices look for hope from those of us who live in free and democratic societies. We must not deny them. On their behalf, we must keep the flame of hope alive.

What is truly marvellous and encouraging to me is that today's technology allows people in the remotest parts of the world to receive messages of support through cyberspace. For someone my age, that is like a dream world. I know this is happening in Tibet. This motion, together with dozens of others across the globe, has probably been relayed to Tibetans in Tibet. They will know they are not alone and not abandoned.

Honourable senators are in a privileged position and have the unique opportunity to participate in the public policy process, which includes expressing our position on issues. Each of our voices carries with it certain authenticity, which adds value to an issue; but, collectively, the voice of the Senate of Canada has enormous influence, even if only morally. We have often used our collective voice in defence of those who suffer injustices or who are unable to defend themselves, both for domestic and international issues. We would be prepared to stand in solidarity with those who are denied fundamental rights, to shine light on wrongs and abuses everywhere in the world. It is our duty to the principle of being our brother's keepers.

A very good example is Senator Dallaire's motion on Darfur. Honourable senators may remember that, on March 27, Senator Cools raised a point of order objecting to the form of this motion. In the course of her remarks, she said:

I wish to be clear that I am not speaking on the merits, the righteousness or the contents of this motion. I am adopting no position on the motion's merit; I am confining myself to its form.

• (1640)

On April 24, the Speaker ruled that the motion was in order. He said, "Both Canadian and UK practice suggest that there is sufficient flexibility to allow for motions of the kind proposed."

Indeed, I can point to several recent examples from Commonwealth jurisdictions whose parliaments addressed the Chinese government directly on the issue of Tibet. On February 26 of this year, a motion was tabled in Scotland. It read, in part, "That the Parliament urges the government of the People's Republic of China and the representatives of Tibet's government in exile . . ."

Three weeks ago, on May 18, an Early Day Motion was tabled in the British Parliament. It too called on the Chinese government to make a positive gesture toward the Tibetans, and it too is worded in a mild, non-confrontational manner. It ". . . urges the government of the People's Republic of China and the Dalai Lama to resume and continue the dialogue . . ."

I have the full text of these motions should honourable senators wish to see them.

Honourable senators, for the record, let me share some additional thoughts driving my wish to bring this motion to a successful conclusion. Since 2002, envoys of the Dalai Lama have met with Chinese officials on five occasions. However, in

five years, the discussions have not moved beyond an exchange of positions and an agreement to continue discussions. As I said before, His Holiness has been unequivocal in accepting a solution within the framework of the Chinese Constitution. He has eschewed independence time and again. He is not calling for the removal of all military troops. He is not calling for the removal of settlers and he is not calling for the remaking of borders. He has conceded the maximum possible in leading the longest-standing, peaceful, non-violent movement for justice in modern history. It is time or Beijing's leadership to reciprocate and place on the negotiating table reasonable proposals to put an end to this tragic story and reach an honourable solution.

A responsible state respects the rights of all its citizens. Autonomy, genuine autonomy that is, must be extended to all Tibetans. Granting such a status is not only an issue of international expectations, human rights and justice; it supports China's self-interest in unity and the credibility of its claim to be a harmonious multi-ethnic state. Honourable senators, this is not merely the cause of a leader in exile; it is a struggle for justice of an entire people.

On February 7, I mentioned this motion was part of a worldwide initiative. Let me share with you a few brief updates. On February 15, the European Parliament, a body representing 27 countries, passed a lengthy resolution on Tibet. On the same day, with unanimous consent of all parties, a motion was passed in the other place. That is not surprising since this is not a partisan issue in Canada or in any other open democracy. In fact, legislatures across Europe, in the United States and in parts of Asia have spoken out in motions, statements, and hearings. Actions have been taken in the Parliaments of Switzerland, Austria, Poland, Liechtenstein, Sweden and France. We received word that legislatures in Australia, several African countries, India and at least one South American country are engaging their colleagues and governments to do more. It is likely that other countries are speaking out on behalf of Tibet.

On March 10, the forty-eighth anniversary of the 1959 Tibetan national uprising, thousands of people around the world rallied in support of Tibet. In Germany, almost 800 Tibetan flags were flown in town halls and regional capitals across the country. More than 300 Tibetan flags were raised in the Czech Republic, including outside the office of the environment minister. As the Speaker of the U.S. House of Representatives, Nancy Pelosi, said on that day, "... we must never forget the people of Tibet in their ongoing struggle."

Her comment echoed a statement made in the UN General Assembly over four decades ago by the Irish representative Frank Aiken, who asked:

... how many benches would be empty here in this hall if it had always been agreed that when a small nation or a small people fell into the grip of a major power, no one could ever raise their case here; that once they were a subject nation, they must always remain a subject nation.

Last week in Australia, His Holiness the Dalai Lama said that in the next 15 years, without some intervention, the Tibetan culture in Tibet will begin to disappear. Also last week, at the G8 summit, Prime Minister Harper engaged Chinese President Hu Jintao on the issues of democratic reforms and human rights,

among others. Prime Minister Harper also acknowledged the positive developments in China during the past 25 years.

I agree with His Holiness that time is running out for the Tibetan culture but I also agree with the Prime Minister that the Chinese authorities are more open today to some influence than ever before. The upcoming 2008 Olympics in Beijing and the world attention this will bring makes it a great time to renew efforts to encourage Beijing to reach a honourable compromise on the Tibetan issue.

Honourable senators, this motion was carefully reflected upon and it has been carefully worded. It has been shared with representatives of the Dalai Lama and many colleagues around the world. It reflects the latest developments in the process of dialogue between the Chinese and Tibetans, some of which His Holiness' representative shared with us when he appeared before a subcommittee in the other place in November. It is meant to send a clear but non-confrontational signal to support bridge-building between the two parties. It is part of a worldwide parliamentary initiative in which much thought and effort has been invested. It has clear and substantive meaning behind it. In particular, it calls on both sides to seek a pragmatic solution that respects the Chinese constitutional framework and the territorial integrity of China and fulfills the aspirations of the Tibetan people.

Honourable senators, despite the Speaker's clear ruling, the existing precedents and all of my foregoing remarks, in a spirit of compromise I am prepared to seek accommodation in offering a subamendment to Senator Carstairs amendment. In doing so, the motion addresses the Government of Canada rather than the Government of the People's Republic of China and His Holiness the Dalai Lama. I hope this will satisfy honourable senators who have concerns with the form of the motion.

#### MOTION IN SUBAMENDMENT

**Hon. Consiglio Di Nino:** Therefore, honourable senators, I move:

That the motion in amendment be amended immediately following the words "Canada and in particular the Foreign Affairs Minister, to" by eliminating all subsequent words and replacing them with the following:

... encourage the Government of the People's Republic of China and the Dalai Lama, notwithstanding their differences on Tibet's historical relationship with China, to continue their dialogue in a forward-looking manner that will lead to pragmatic solutions that respect the Chinese constitutional framework, the territorial integrity of China and fulfill the aspirations of the Tibetan people for a unified and genuinely autonomous Tibet.

**The Hon. the Speaker:** Honourable senators, on the subamendment to the amendment of Senator Carstairs, it is moved by the Honourable Senator Di Nino, seconded by the Honourable Senator Cowan for Senator Cordy, that the motion in amendment be amended immediately following the words, "Canada and in particular the Foreign Affairs Minister to . . ."

**An Hon. Senator:** Dispense!



**The Hon. the Speaker:** Debate, honourable senators?

**Hon. Anne C. Cools:** I defer to the Deputy Leader of the Opposition in the Senate.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** I move the adjournment of the debate.

On motion of Senator Tardif, debate adjourned.

• (1650)

## THE SENATE

### MOTION URGING GOVERNOR GENERAL TO FILL VACANCIES IN SENATE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Phalen:

That an humble Address be presented to Her Excellency the Governor General praying that she will fill the vacancies in the Senate by summons to fit and qualified persons.—(*Honourable Senator Murray, P.C.*)

**Hon. Lowell Murray:** Honourable senators, the issue that is raised by this motion, as well as by the inquiry launched some time ago by our colleague Senator Banks, is whether the Prime Minister is breaching constitutional convention by not proceeding to fill vacancies in the Senate. At what point would he breach that convention and, once breached, what is the remedy for the breach?

I indicated the other day that I would support Senator Moore's motion mainly because I share his concern for the continued vitality of the Senate as a working part of our parliamentary institutions, but I do not share his apparent confidence that the remedy he suggests would be effective any time soon. However, I shall vote for it.

I want to draw to the attention of honourable senators, because I intend to refer to them, a couple of documents from the Library of Parliament on this general subject. One is entitled "Notes on Vacancies in the Senate" and was authored by Michael Dewing of the Political and Social Affairs Division in 1999. The other is entitled "Issues Related to Senate Vacancies," authored by Penny Becklumb of the Law and Government Division. This is a document that I asked to be prepared and was produced last month on May 17, 2007. I presume the first document is widely available. If any permission of mine is needed to allow honourable senators or anyone else access to the second document, I hereby give that permission. These documents and some interesting appendices to them contain narratives, historical data with regard to Senate vacancies and some analysis of the argument regarding conventions.

With regard to vacancies, there are, I think, 11 or 12 of them in the Senate as we speak. I thought I would take honourable senators through the number of vacancies that had accumulated during various Parliaments. Going back to the Parliament of

1930-35, under the government of the Right Honourable R.B. Bennett, there was an accumulation of 19 vacancies. From 1935 to 1940, 14 vacancies accumulated; 1940 to 1945 saw an accumulation of 18 vacancies; 1945 to 1949, an accumulation of 11 vacancies; by 1953, the number of vacancies has increased to 23; in 1955, the number of vacancies reached 21. Mr. Diefenbaker, when he came into office, inherited 14 vacancies, which he proceeded to fill, naturally, since the number of Progressive Conservatives in the Senate was down to seven when he took office. Under Mr. Pearson's government, the number of vacancies rose, but not to those previous levels. Under Prime Minister Trudeau, by 1970, there were 13 vacancies. Following the 1974 election, there were 12. He left nine vacancies for Prime Minister Clark in 1979, and Mr. Clark filled those vacancies and two more that occurred. It was during the 1980-84 Trudeau administration, his final majority mandate, that the number of vacancies reached 21 by mid-December 1983. The number of vacancies remained below five during most of Prime Minister Mulroney's first term in office, but they were up to 14 again by mid-August 1990. They seldom reached those levels under the Chrétien administration.

With regard to the length of vacancies, I have a note that between 1963 and 1999, the average Senate vacancy had lasted 418 days. The average would probably be higher now. However, I should indicate by way of placing on the record the precedents for length of vacancies. I think there has been one vacant here now for 14 months, my friend Senator Moore says.

Let me give honourable senators some precedents. The seats to which Senator Frith of Ontario was appointed, in 1977; Senator Anderson of New Brunswick, in 1978; Senator Barootes, in 1984; and Senator Macquarrie, in 1979 had all been vacant for more than four years. The seat to which Senator Steuart was appointed from Saskatchewan, in 1976, had been vacant for more than five years. Seats to which Senator Bud Olson of Alberta and Senator Roméo LeBlanc of New Brunswick had been appointed had been vacant for more than six years. The seat to which the Honourable Duff Roblin of Manitoba was appointed, in 1978, had been vacant for 8.4 years.

The point I am making, and I think it is germane to my honourable friend's motion, is that there are plenty of precedents for today's situation, both in the number of vacancies and in the length of them.

The new elements that Senator Moore has brought into the debate are, first, the stated refusal of the present Prime Minister to fill Senate vacancies. He has already filled one. He intends to fill another at the end of June when Senator Hays departs. However, these are exceptions that he has explained. In general, his statement is that he would not be appointing senators. The question is, at what point can you take his refusal, a statement of that kind, to court, or really do very much about it since it is by instrument of advice from the Prime Minister to the Governor General that honourable senators are appointed.

The second issue that is underlined by Senator Moore, and it will be of growing relevance and importance as time goes on if the status quo is maintained, is the regional issue and the effect of a refusal to fill vacancies on the regional balance that is supposed to exist in the Senate.

My friend has mentioned his own province of Nova Scotia, where I believe there are three vacancies at the moment, and the consequent under-representation of the entire Maritime region. I looked at two other provinces which I think create a more serious or potentially serious problem. British Columbia, which is already underrepresented here, with only six senators, has only five sitting as we speak because there is one vacancy. Within five years, three honourable senators from British Columbia will have retired, and British Columbia will be down to two of the six senators to which it is entitled. The same thing holds true for Newfoundland and Labrador. There is one vacancy there now, so there are five sitting senators. There will be three retirements and, by the end of 2012, there will only be two senators left from Newfoundland and Labrador. That assumes that everyone else remains in good health or does not take an early retirement. The regional situation could be exacerbated as time goes on if Mr. Harper stays in office and maintains his position.

• (1700)

With regard to conventions, this is a difficult one. I think it is fair to say that the remedy for breached constitutional conventions is really political, and therefore not too well-defined. Where the political remedy might lie, I do not know. Perhaps it is with the Governor General, with Parliament, or, as my document from the Library of Parliament suggests, with public opinion or the electorate.

There was an attempt — and this is directly related to what Senator Moore is trying to do with his motion — way back in 1955, on the part of a distinguished Liberal senator, a former long-time parliamentarian in both Houses and a former minister in Mackenzie King's government, to introduce, as a private member's initiative, a constitutional amendment to provide that it be mandatory to fill every vacancy in the Senate within six months. Senator W. D. Euler was the sponsor.

**Senator Segal:** He was very well known.

**Senator Murray:** Yes. He was from your part of the country, I believe, the Kingston area. He had been Minister of Trade in Mackenzie King's government. He received a lot of support for the idea in the Senate. There were some very eminent legal scholars who spoke to the matter. As far as I can make out from the debate, while most of them supported the spirit of his motion — in the same way that I support the spirit of Senator Moore's motion — they were dubious about making it stick if the constitutional amendment were to pass.

The late, great Senator Roebuck, who was here when I arrived on the Hill 40 odd years ago, was one of those who spoke. Senator Farris of British Columbia said that no lawyer would stake his reputation upon the proposition that this means that the vacancy shall be filled some three, five, or even seven years after it occurs. The question is entirely one of what is a reasonable term. Senator Farris himself, a supporter of the motion, pointed out that, "No penalty can be provided for the failure of the Governor General to carry out the mandate of the Constitution."

Senator Salter Hayden, whom some of us served under when he was Chairman of the Standing Senate Committee on Banking, Trade and Commerce, said any change to the system would have to be by force of public opinion because "I know of no provision

in the law under which an application can be made for a mandamus against the Crown for failure to proceed under this section of the British North America Act."

Senator Hugessen, another prominent senator, noted that, "It would be absurd to impose a penalty on the Governor General for not doing something which everyone recognizes is not a personal act of his own but one which he can only take upon the advice of his advisers."

Senator John Connolly, who some of us know as a former colleague here, agreed with Senator Hugessen, saying that, "The proposed new injunction to the Governor General would not be mandatory. It could be no more than directive. No writ of mandamus and no comparable judicial process can run against the Crown. This is long-settled law." He pointed out that the Governor General was already in violation of the Constitution for failing to fill vacancies within a reasonable time, yet there was no legal sanction for this condition.

Honourable senators, I leave that with for your consideration and invite you to obtain copies of those documents, reflect on them and, perhaps, even read the debate to which I referred.

There has been some suggestion that what the Prime Minister is doing — or, rather, not doing — is part of a grand strategy on his part; that is, to let vacancies accumulate over a period of time and to create a crisis in the Senate, at which point he believes — this is attributed to him — that one or two provinces will then move to hold elections. There will then be a cascade of elections and, presto, he will have his new Senate.

**Senator Segal:** Unsubstantiated!

**Senator Murray:** There are a number of problems with this, quite apart from the fact that we would be reforming a Senate without making any change, even in the regional distribution.

The first problem is that the provinces that go ahead to hold so-called senatorial elections will find themselves in the same position that Alberta was in when it came to drafting a law that is *intra vires* their legislature. I told the Senate 17 years ago, on advice, that the Alberta law under which future Senator Brown and former Senator Waters were sent here was *ultra vires* the Alberta legislature, and not just in one or two respects but from stem to stern; and that there were provisions in the Alberta law that would be *ultra vires* of the federal Parliament if we tried to do it on our own. Other provinces who try will run up against the same drafting problems. Someone will appeal, the fat will be in the fire again and no one will be any further ahead.

The second issue is that Quebec — and perhaps others — has taken the position for some time that it is in favour of indirect elections, not direct elections. Mr. Harper has not shown much sympathy for this option. Whenever the subject came up, Quebec wanted to have senators elected by their National Assembly.

I see the clerk standing to indicate that my time is up.

**The Hon. the Speaker:** Honourable senators, is it agreed that the Honourable Senator Murray have more time?

**Hon. Senators:** Agreed.



**Senator Murray:** The third problem is that the proposed federal law, Bill C-43, is also subject to possible court action by Ontario and Quebec. Indeed, those provinces have put us on notice. If this is part of a grand strategy on Mr. Harper's part, it seems to be going nowhere. I say as I have said before: The only crisis that is developing is a crisis of governance that directly affects the Conservative government and party in this chamber.

Senator Day and Senator Corbin took umbrage when the Prime Minister spoke about needing a Senate to do the business of the government. I would disagree with them to this extent: We have to do the business of the government. Government bills take precedence on our Order Paper and, by convention, in our committee. There is need of a critical mass of government supporters in the Senate to facilitate and support the government's agenda. The government cannot expect the opposition or even independent senators here to accept that responsibility. It is not theirs.

I make the point that I think I have made before: Before we find ourselves with only seven supporters of the Conservative Party left, the Prime Minister owes it to his government, to his caucus, and to the people who voted for his party to be able to move ahead with his agenda. I understand his views about term limits and elections, and so on, but the immediate solution at hand is to appoint a dozen people who are 65 years of age or over, pending some more comprehensive reform.

**Hon. Leonard J. Gustafson:** Will the honourable senator accept a question?

**Senator Murray:** Yes, of course.

**Senator Gustafson:** From what I am hearing at the grassroots level, people are demanding change in the Senate and that there be some answers. I have people coming to me who are not political in that sense, yet they want to see changes in the Senate.

One of the biggest issues is regional representation. A province like B.C., with over 4 million to 5 million people, has only six senators. We heard from the honourable member the other day about the problems that exist in Quebec. In your mind, how can this be settled in a way that will be of benefit to all Canadians?

**Senator Murray:** Honourable senators, if some of Senator Gustafson's friends are complaining about the Senate or demanding changes in it, I hope they preface their questions by saying that they hope he will long continue here to do the good work that he is doing on their behalf.

• (1710)

Senator Austin and I have a constitutional amendment before the Senate now which will increase western representation. That constitutional amendment is stuck somewhere with Her Majesty's Loyal Opposition. It would be a great step forward if they would bring it forward for a vote as soon as possible.

**Hon. Norman K. Atkins:** What is the honourable senator's view of the pressure that is being applied on the Senate — regardless of political affiliation — by the House of Commons to rubber-stamp legislation that comes to this place?

**Senator Murray:** I have learned to become impervious to those pressures. It has been a late conversion, I admit. Not enough attention is paid to our role as a revising chamber, quite apart

from the large policy issues that may arise from time to time. One of them will be before us shortly — Bill C-52, the budget implementation bill — that raises problems as to what we should do if we are opposed to it or to various elements of it.

Many bills come before us that badly need revision, and our committees do that work. Members of the House of Commons, and in particular of the government, far from being resentful, should thank us for the work that we and our colleagues in committees do in that respect.

**The Hon. the Speaker:** Senator Murray's extra five minutes have expired.

**Hon. Anne C. Cools:** Could he have more time?

**The Hon. the Speaker:** Continuing debate.

On motion of Senator Tardif, debate adjourned.

[Translation]

## STUDY ON ISSUES RELATED TO NATIONAL AND INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

### MOTION TO REQUEST GOVERNMENT RESPONSE ON REPORT OF HUMAN RIGHTS COMMITTEE— ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator Stratton,

That, pursuant to rule 131(2), the Senate request a complete and detailed response from the Government, with the Minister of Foreign Affairs being identified as the Minister responsible for responding to the twelfth report of the Standing Senate Committee on Human Rights, entitled: *Canada and the United Nations Human Rights Council: At the Crossroads.*—(Honourable Senator Corbin)

**Hon. Eymard G. Corbin:** Honourable senators, given my comments made at the time of adjournment Thursday last, I note that Senator Andreychuk is unavoidably absent and I move that the debate be adjourned until the next sitting.

On motion of Senator Corbin, debate adjourned.

[English]

## POST-SECONDARY EDUCATION

### INQUIRY—DEBATE SUSPENDED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Tardif calling the attention of the Senate to questions concerning post-secondary education in Canada.—(Honourable Senator Hubley)

**Hon. Lillian Eva Dyck:** Honourable senators, it is my pleasure today to join the debate on the inquiry of the Honourable Senator Tardif on questions concerning post-secondary education. I would like to focus my remarks today on Aboriginal people, and in particular I want to focus on Aboriginal people in Saskatchewan.

To give honourable senators a brief outline over the next minute or so, it is my intention to go through a number of statistics with regard to the gaps in Aboriginal people's education compared to the non-Aboriginal population and then enter into a general discussion and to look at some of the numerous reports that have been published on the gaps in post-secondary education.

To begin, I will provide some basic information to honourable senators about which I am sure you are aware. The Statistics Canada 2001 census indicated that 3 per cent of the Canadian population was Aboriginal: In Saskatchewan that was about 14 per cent; in Saskatoon, about 9 per cent.

To put these figures into context, it is interesting to note that the visible minority population is 14 per cent.

#### BUSINESS OF THE SENATE

**The Hon. the Speaker:** Honourable senators, pursuant to the house order we must suspend and begin to ring the bells. After the vote, we will continue where we left off with the honourable senator.

Honourable senators, the house will be suspended for the vote that is ordered at 5:30 and the bells will now begin to ring for 15 minutes.

Let the record show that I have been given permission to leave the chair.

Call in the senators.

• (1730)

#### KYOTO PROTOCOL IMPLEMENTATION BILL

##### THIRD READING—MOTIONS IN AMENDMENT AND SUBAMENDMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Trenholme Counsell, for the third reading of Bill C-288, An Act to ensure Canada meets its global climate change obligations under the Kyoto Protocol;

And on the motion in amendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Angus, that Bill C-288 be not now read a third time but that it be amended:

(a) in clause 3, on page 3, by replacing line 19 with the following:

"Canada makes all reasonable efforts to take effective and timely action to meet";

(b) in clause 5,

(i) on page 4,

(A) by replacing line 2 with the following:

"to ensure that Canada makes all reasonable efforts to meet its obligations",

(B) by replacing line 6 with the following:

"ance standards for vehicle emissions that meet or exceed international best practices for any prescribed class of motor vehicle for any year," and

(C) by adding after line 13 the following:

"(iii.2) the recognition of early action to reduce greenhouse gas emissions, and",

(ii) on page 5,

(A) by replacing line 9 with the following:

"(a) within 10 days after the expiry of each",

(B) by replacing line 23 with the following:

"first 15 days on which that House is sitting", and

(C) by replacing lines 26 and 27 with the following:

"each House of Parliament is deemed to be referred to the standing committee of the Senate and the House of Commons that";

(c) in clause 6, on page 6, by adding after line 29 the following:

"(3) For the purposes of this Act, the Governor-in-Council may make regulations restricting emissions by "large industrial emitters", persons that the Governor-in-Council considers are particularly responsible for a large portion of Canada's greenhouse gas emissions, namely,

(a) persons that are part of the electricity generation sector, including persons that use fossil fuels to produce electricity;

(b) persons that are part of the upstream oil and gas sector, including persons that produce and transport fossil fuels but excluding petroleum refiners and distributors of natural gas to end users; and

(c) persons that are part of energy-intensive industries, including persons that use energy derived from fossil fuels, petroleum refiners and distributors of natural gas to end users.";



(d) in clause 7,

(i) on page 6,

(A) by replacing line 32 with the following:

“that Canada makes all reasonable attempts to meet its obligations under”, and

(B) by replacing line 38 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 7, by replacing line 4 with the following:

“(3) In ensuring that Canada makes all reasonable attempts to meet its”;

(e) in clause 9,

(i) on page 7, by replacing line 33 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 8,

(A) by replacing line 3 with the following:

“Minister considers appropriate within 30 days”, and

(B) by replacing line 7 with the following:

“(1) or on any of the first fifteen days on which”;

(f) in clause 10,

(i) on page 8,

(A) by replacing line 9 with the following:

“10. (1) Within 180 days after the Minister”,

(B) by replacing line 11 with the following:

“tion 5(3), or within 90 days after the Minister”, and

(C) by replacing line 38 with the following:

“(a) within 15 days after receiving the”, and

(ii) on page 9,

(A) by replacing line 6 with the following:

“Houses on any of the first 15 days on”, and

(B) by replacing line 9 with the following

“(b) within 30 days after receiving the advice,”;

(g) in clause 10.1, on page 9,

(i) by replacing line 17 with the following:

“and Sustainable Development may prepare a”,

(ii) by replacing line 32 with the following:

“report to the Speakers of the Senate and the House of Commons”, and

(iii) by replacing lines 34 and 35 with the following:

“Speakers shall table the report in their respective Houses on any of the first 15 days on which that House”.

On the subamendment of the Honourable Senator St. Germain, P.C., seconded by the Honourable Senator Di Nino, that the motion in amendment be amended by deleting amendment (b)(i)(B) and relettering amendment (b)(i)(C) as amendment (b)(i)(B).

Motion in subamendment negated on the following division:

#### YEAS THE HONOURABLE SENATORS

Andreychuk  
Carney  
Comeau  
Di Nino  
Eyton  
Gustafson  
Johnson  
Keon  
LeBreton

Meighen  
Nancy Ruth  
Nolin  
Oliver  
Segal  
St. Germain  
Stratton  
Tkachuk—17

#### NAYS THE HONOURABLE SENATORS

Adams  
Atkins  
Bryden  
Callbeck  
Campbell  
Carstairs  
Chaput  
Cook  
Cools  
Corbin  
Cordy  
Cowan  
Dawson  
Down  
Dyck  
Eggleton  
Fairbairn  
Fitzpatrick  
Fox  
Fraser  
Goldstein  
Grafstein

Hays  
Hervieux-Payette  
Joyal  
Lavigne  
Losier-Cool  
Mahovlich  
Merchant  
Mitchell  
Moore  
Munson  
Murray  
Peterson  
Phalen  
Ringuette  
Robichaud  
Rompkey  
Smith  
Tardif  
Trenholme Counsell  
Watt  
Zimmer—43

ABSTENTIONS  
THE HONOURABLE SENATORS

Nil

**The Hon. the Speaker:** Accordingly, the subamendment is defeated.

BUSINESS OF THE SENATE

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I seek leave of the chamber to postpone all remaining items on the Order Paper and Notice Paper until the

next sitting of the Senate. I seek leave that the items retain their position and I ask that Senator Dyck's inquiry remain standing in her name.

**The Hon. the Speaker:** Is there unanimous agreement, honourable senators?

**Hon. Senators:** Agreed.

The Senate adjourned until Wednesday, June 13, 2007, at 1:30 p.m.



## APPENDIX

### **Bill S-4, An Act to amend the *Constitution Act, 1867* (Senate tenure)**

#### **Observations to the Report of the Standing Senate Committee on Legal and Constitutional Affairs**

#### **Introduction**

**“Suppose you appoint them for nine years, what will be the effect? For the last three or four years of their term they would be anticipating its expiry, and anxiously looking to the administration of the day for reappointment; and the consequence would be that a third of the members would be under the influence of the executive.”**

**--- George Brown, 1865<sup>1</sup>**

George Brown, a member of John A. Macdonald and George-Étienne Cartier's coalition government for the then province of Canada, went on to describe in his speech how their aim was to fashion an Upper House which would be “a thoroughly independent body – one that would be in the best position to canvass dispassionately the measures of this house and stand up for the public interest in opposition to hasty or partisan legislation.”

It is clear from the Confederation Debates that the framers of Canada's Constitution did consider the option of a nine year renewable term for appointed senators but concluded that it would threaten the independence of the Upper Chamber from the executive – in other words, from the Prime Minister and his cabinet. Consequently, the Fathers of Confederation rejected a fixed renewable term and chose instead, for both the Senate and Canada's new Supreme Court, appointment for life. In the early 1960's, the term for the members of both institutions was changed to appointment until the age of 75.

Bill S-4, while brief in length, proposes a major change to the current practice at least in so far as the Senate is concerned. New senators would be appointed on the recommendation of the Prime Minister to eight year renewable terms, with no mandatory retirement at the age of 75. Two closely interrelated questions immediately came to mind. Would essential features of our parliamentary democracy, as constructed at the time of Confederation, be affected, and is this a change to our Constitution which can legally be made by the federal Government acting alone through Parliament without the involvement of the provinces?

---

<sup>1</sup> Legislative Assembly, February 8, 1865

The place of the Senate within the governing framework of Canada was arguably the most important and contentious issue faced by the framers of our Constitution. Though there were some, particularly those from the most populous region, Upper Canada (Ontario), who would have preferred a unicameral parliament, a second chamber was critical for those from the less populous regions. As George Brown described it: "Our Lower Canada (Quebec) friends have agreed to give us representation by population in the lower house, on the express condition that they shall have equality in the upper house. On no other condition could we have advanced a step."<sup>2</sup> Alexander Mackenzie, who went on to serve as our second Prime Minister, observed: "The most important question that arises relates to the constitution of the upper house."<sup>3</sup>

In addition to the equality of representation from the three regions of the country (Maritimes, Quebec, Ontario), there was also a debate about whether senators should be appointed or elected, with the view of John A. Macdonald finally prevailing: "There is, I repeat, a greater danger of an irreconcilable difference of opinion between the two branches of the legislature, if the upper be elective, than if it holds its commission from the Crown."<sup>4</sup>

In the end, the compromise reached called for a Senate with equal representation from the three regions, made up of members who were appointed for life terms by the executive. That this was a compromise designed to achieve unanimity among the participants was underscored by Alexander Mackenzie, who said: "While it is my opinion that we would be better without an upper house, I know the question is not, at the present moment, what is the best possible form of government, according to our particular opinions, but what is the best that can be framed for a community holding different views on the subject."<sup>5</sup>

To follow Alexander Mackenzie's line of thought, the two key questions at the present moment for the members of this Committee are whether the measures contained in Bill S-4 bring us closer to the "best possible form of government" and whether there is a constitutional obligation for the federal government to take into account the views of those in our federal community, namely the provinces, who may hold a different opinion about what is proposed? These are the questions which informed the work of this Committee.

Bill S-4 arises out of the June 2006 election promise of the Conservative Party to "begin reform of the Senate by creating a national process for choosing elected senators from each province and territory".

The new Conservative Government began that reform by introducing Bill S-4 on May 30, 2006, choosing to deal with the issue of tenure of new senators before advancing changes to their method of selection.

---

<sup>2</sup> Legislative Assembly, February 8, 1865

<sup>3</sup> Legislative Assembly, February 23, 1865

<sup>4</sup> Legislative Assembly, February 6, 1865, Macdonald's preference for an appointed upper chamber was based on his experience with the parliament for the United Canadas where the two elected chambers often found themselves in deadlock.

<sup>5</sup> Legislative Assembly, February 23, 1865



The subject matter of the bill was referred to a Special Senate Committee on June 28, 2006, which recommended in principle defined term limits for new senators and concluded that “there appears to be no need for additional clarity on the constitutionality of Bill S-4...”. However, following the presentation of the Committee’s Report, the Government introduced, on December 13, 2006, Bill C-43, the Senate Appointment Consultation Act. This new development in the federal Government’s Senate reform initiative led some senators, as well as a number of constitutional scholars and provincial authorities, to reconsider their earlier analysis of Bill S-4, particularly as concerned its constitutionality. Consequently, this Committee, building on the work of the Special Committee, has given closer attention to the evolving constitutional issues, and the principles defined in the ruling of the Supreme Court in 1979, known as the *Upper House Reference*.

### I. 8-Year Term Appointments

The core of Bill S-4 is the proposal to provide fixed eight-year terms for new senators. In 1979, the Supreme Court of Canada was asked whether it was within the legislative authority of Parliament to enact legislation changing the tenure of members of the Senate. The Court said:

“At some point, a reduction of the term of office might impair the functioning of the Senate in providing what Sir John A. Macdonald described as “the sober second thought in legislation”. The [1867 Constitution] Act contemplated a constitution similar in principle to that of the United Kingdom, where members of the House of Lords hold office for life. The imposition of compulsory retirement at age seventy-five did not change the essential character of the Senate. **However, to answer this question we need to know what change of tenure is proposed.**”<sup>6</sup> (emphasis added)

It would appear from this statement that some Senate tenure terms would be constitutional – but others would not. None of the witnesses who testified before the Committee was able to state where the dividing line is to be found. Even the Government’s legal counsel, Warren Newman, General Counsel, Constitutional and Administrative Law Section of Justice Canada, acknowledged that certain changes, such as a reduction to one year, would not pass constitutional muster, thereby acknowledging on behalf of the Government that its ability to make changes to Senate tenure under section 44 is not absolute. But no one could identify the critical dividing line.

Henry S. Brown, a constitutional lawyer with Gowling Lafleur Henderson, provided the Committee with a lengthy written opinion and also testified in person. He pointed out that in the *Upper House Reference*, the Supreme Court said that Parliament is not permitted unilaterally (i.e. without the involvement of the provinces) to make alterations which would “affect the

---

<sup>6</sup> *Authority of Parliament in relation to the Upper House (Re)*, [1980] 1 S.C.R. 54, 76-77.

fundamental features, or essential characteristics, given to the Senate as a means of ensuring regional representation and provincial representation in the federal legislative process".<sup>7</sup>

A second test that must be met is whether the proposed reduction in the term of office "might impair the functioning of the Senate in providing what Sir John A. Macdonald described as 'the sober second thought in legislation'." <sup>8</sup>

Mr. Brown emphasized that:

"the Supreme Court specifically referred to the independence of the Senate as forming part of its fundamental features. The Court said that the 'intention was to make the Senate a thoroughly' – and I emphasize the word 'thoroughly' – 'independent body which would canvass dispassionately the measures of the House of Commons' and that this was 'accomplished by providing for the appointment of members of the Senate with tenure for life.'"<sup>9</sup>

There are therefore three critical characteristics that must be maintained in any proposed change of tenure: (1) the Senate's thorough independence; (2) the Senate's capacity to provide sober second thought; and (3) the Senate's role as a means of provincial and regional representation.

Witnesses raised a number of concerns about the proposed 8-year term that related to these constitutional issues, including the fact that the term would allow a two-term Prime Minister to appoint every single senator in the Chamber. This would profoundly undermine the Senate's ability to fulfil its role as "a thoroughly independent body" of sober second thought. Virtually every expert who testified before us agreed that this is a significant problem.

Indeed, the Premier of New Brunswick, Shawn Graham, wrote on April 20, 2007 to say:

"An additional concern of the Government of New Brunswick regarding Bill S-4 in its current form is the ability of any Federal Government in power for at least two full mandates to completely replenish the ranks of the Senate using an as yet undefined process. This follows directly from the proposed reduction in the tenure of Senators to only 8 years. Again here, this can only lead to a dilution of the independence of regional representation in the Senate. For a Province like New Brunswick, it is difficult to conceive how such a proposal could be favourable to its interests."<sup>10</sup>

---

<sup>7</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 29, 2007, Issue No. 24:81-82, quoting from the Supreme Court's opinion.

<sup>8</sup> *Id.*, 24:82.

<sup>9</sup> *Ibid.*, quoting from the Supreme Court decision in the *Upper House Reference*.

<sup>10</sup> Submission from Shawn Graham, Premier of New Brunswick, dated April 20, 2007, p. 7.



As noted above, under the *Upper House Reference* an alteration which would “affect the fundamental features, or essential characteristics, given to the Senate as a means of ensuring regional representation and provincial representation in the federal legislative process” is beyond the jurisdiction of Parliament acting unilaterally to enact. Premier Graham certainly believes this to be such an alteration.

Other important issues were also raised questioning the merits of the proposed 8-year terms. Several witnesses spoke of the value in having Senators who, by virtue of their long careers in the Senate, have acquired expertise in particular subject areas as well as in the procedural rules of the Senate – the so-called “Deans” of the Senate. There was concern that the long-term perspective now applied in the Senate would be impaired or lost.

A witness raised the issue that the proposed term would reduce the stability of the Senate, noting that “the present tenure virtually ensures that the Senate will exercise a powerful potential oversight and curtailment function for several years after the governing party is replaced in the House of Commons....This may result in a significant change in the Senate’s overview function, and will certainly mean that the resulting Senate is no longer ‘thoroughly independent’ as required by the Supreme Court of Canada in *Re Upper House*.”<sup>11</sup>

We were also impressed by the thoughtful comments from those who have closely studied the British House of Lords. Reform of that House has been the subject of extensive thought, study and debate for a decade. The proposal now under consideration is that peers should sit for 15 years, the equivalent of three electoral cycles of the European Parliament, with one-third being replaced every five years. This 15-year term would not be renewable.

Gerard Horgan, a Canadian political scientist currently teaching at the International Study Centre for Queen’s University in the United Kingdom, described the findings of the Royal Commission on Reform of the House of Lords (the “Wakeham Commission”) which reported in 2000, as follows:

“The Commission’s aspirations for the membership of the House of Lords in many instances paralleled those expressed for the Canadian Senate. For instance, the Commission took the view that long tenure would, ‘encourage members to be independent minded and take a long-term view, discourage the politically ambitious from seeking a place in the second chamber, contribute to a less partisan style of debate, and allow members time to absorb the distinctive ethos of the second chamber and to learn how to contribute most effectively to its proceedings.’”

---

<sup>11</sup> Brown Submission, p. 34.

Given those aspirations and having taken into account the possible disadvantages of long tenure, the Commission concluded that members should serve for the equivalent of three electoral cycles, a term of 12 to 15 years. In addition, the Commission noted that it did consider a term based on two electoral cycles but that it 'concluded that terms of this length would be too short for the purposes of creating the kind of second chamber which we envisage.'

.....

In summary, then, first, the principled argument for at minimum a three-to-one ratio of Lords to Commons terms was made by the Wakeham Commission. Second, although the last word on Lords reform is a long way from being written, the force of the argument for a term of significant length for the U.K. upper chamber has been sufficient to gain government support for a 15-year term. Third, given the possibility of selecting only a portion of provincial senatorial contingents at each consultative election, one of the possible objections to a significant term for senators is obviated.

To close, I would just say that what I have hoped to do with my submissions and remarks is to provide honourable senators with evidence that there are reasoned arguments in favour of significantly longer terms for upper chambers. However, and I say this not out of a motivation to flatter but because I believe it is true, on these issues, you, senators, are the true experts. If I as a researcher wanted to know how long it takes a new member to understand the ethos of the Senate, I would come and ask you. In the case of this legislation, it is as important that you look to your own experience as it is that you hear from people like me."<sup>12</sup>

Dr. Meg Russell of University College London similarly urged consideration of longer terms:

"In terms of maintaining the ethos of the independence and much of what people value about the House of Lords, many people have argued that long term lengths are important. As Professor Horgan has said, the royal commission recommended 15 years. The government has also recently recommended 15 years."<sup>13</sup>

<sup>12</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 22, 2007, Issue No. 23:103-105.

<sup>13</sup> *Id.*, 23:105.



Lord Howe, a Conservative member of the House of Lords, testified that in his opinion, "15 years should be a minimum length of tenure."<sup>14</sup>

We agree. Our amendment to Bill S-4 changes the proposed 8-year term, which we believe would not meet the Supreme Court's test for constitutionality, to a 15-year term, which we believe would be more likely to meet the constitutional test.

## II. Non-Renewable Appointments

The proposal in Bill S-4 that the new term appointments for Senators should be open to renewal by the Prime Minister of the day was a source of much concern for many witnesses. The Bill itself is silent on the question of renewability. However, the Right Honourable Stephen Harper told the Special Senate Committee on Senate Reform that, "By its silence, you can presume that there would be the possibility of renewal."<sup>15</sup>

Both the Leader of the Government in the Senate, when she spoke to Bill S-4 in the Senate Chamber, and Prime Minister Harper, when he appeared before the Special Senate Committee on Senate Committee, were clear that the decision to permit renewal of the Senate appointments was designed with a view to senators being elected. However, to date, the Government has not proposed a constitutional amendment for an elected Senate. Bill S-4 does not address this in any way.

The overriding issue for many witnesses was the impact of renewability on the independence of a new Senator. Prime Minister Harper dismissed these concerns, saying:

"In my assessment of whether senators would alter their behaviour in light of a renewable term, I tend to dismiss that. In my experience, whether members of either House are willing to work with the government is determined first and foremost by their party affiliation. That is not likely to change whether the terms are renewable or otherwise. That is my take on human nature as it pertains to the legislative process."<sup>16</sup>

Although this may be an accurate description of what takes place in the House of Commons, the situation in the Senate is somewhat more nuanced. In fact, there is a strong tradition in the Senate of independent voting. This is borne out by statistics. Professor Andrew Heard of Simon Fraser University told our Committee that he conducted a study of voting patterns in the Senate in the period 2001 to 2005. He testified:

<sup>14</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 28, 2007, Issue No. 24:12.

<sup>15</sup> *Proceedings of the Special Senate Committee on Senate Reform*, September 7, 2006, Issue No. 2:12.

<sup>16</sup> *Ibid.*

“There is a perception, at least, that, over time, senators have more freedom of personal action than individual MPs do. There has been little statistical or empirical work on this, so I did a study that covered the period of 2001 to 2005.... I looked at 125 formal divisions involving 122 members of the Senate and 7,700 votes. This is only a fraction of the votes, because, as you realize, many votes are settled on a voice vote, and those include a formal recorded vision but no idea of who was in fact dissenting from the vote. I took the record of votes where individual senators are recorded abstaining, voting for or against a bill, and I wanted to see how often they vote against their caucus position and how often they abstain. **It was quite clear that there is a wide practice of independence among senators in a relative sense, certainly relative to the House of Commons.**”<sup>17</sup> (emphasis added)

Professor Heard was adamant that permitting terms to be renewed would seriously impact the independence of senators:

“I do have a serious concern about the possibility of renewal terms. The possibility of a prime minister deciding which of the senators deserve to be reappointed to a new term seriously raises questions about the potential voting patterns of senators who wish to be reappointed. In this respect, I believe that renewable terms would have the potential to seriously impact the independence of senators voting.”<sup>18</sup>

Other witnesses agreed. Professor Jennifer Smith, Chair of the Department of Political Science at Dalhousie University, testified that a renewable term diminishes the independence of the appointee and thus affects the Senate’s function as the chamber of sober second thought. In her considered opinion, it also engages the Senate’s function of federal representation, because the appointee’s independence is compromised by the prospect of the renewable appointment. As such, it affects the character of the Senate as established at Confederation.

Professor David Smith of the Saskatchewan Institute of Public Policy expressed similar views:

“A provision for renewable appointment would make a senator who desired renewal susceptible to influence from the Prime Minister, who would continue to make the nominations to the Governor General. Ambition and a view to future opportunities would assume far greater significance than they have today in the calculations that members of the upper house bring to their work. That comment is not intended as a criticism of such behaviour but as a statement of political life that would now apply to the Senate.”<sup>19</sup>

<sup>17</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 21, 2007, Issue No. 23:45.

<sup>18</sup> *Id.*, 23:46.

<sup>19</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, April 25, 2007, Issue No. 25:33.



However, it must be pointed out that while there was a clear consensus among the witnesses who appeared that renewability would undermine the independence of the Senate, there were views expressed that raised concerns with non-renewability when combined with a relatively short fixed term. Professor Smith, for example, told the Committee:

“A provision for non-renewable appointment for a fixed term would result in a chamber characterized by continual turnover. The features now cited as the Senate's strengths of experience, knowledge and perspective would disappear. More than that, rather than Senate membership coming at the end of an individual's career, it could come at its inexperienced beginning. For example, a person in their thirties appointed to the Senate for eight years would be in a position to seek a seat in the House of Commons by the time she or he was 40. If that were the case, Senate tenure might be seen as easily as prefatory to a period in the Commons as it is now seen to follow time in the lower house or in another occupation. In other words, the relationship between the two chambers would be reversed and the independence that now attaches to senators, whose political ambitions are at an end, would be compromised.”<sup>20</sup>

The Committee recognizes as well that there are dual militating objectives. So long as Senators continue to be appointed, then allowing for reappointments could significantly undermine a senator's independence, striking at the very core of the constitutional role and responsibility of the Chamber in which they would serve. If, however, there is at some point a change to elect Senators, then a prohibition against a second (or third) term could undermine the accountability that is at the core of elections.

We also received strong representations on the issue of renewability from the Premier of New Brunswick, who noted that a renewable term

“...would allow the Prime Minister to improve the accountability of Senators through the suggested advisory electoral process, assuming that the federal Government proceeded with such a change. It is through elections that the population can truly express their approval with the work done by their Senate representatives. If the Senators could hold office for one term only, then elections would not improve their accountability. In the Government of New Brunswick's opinion, this is one feature of the proposal that is likely to reduce the effectiveness of the Senate as a representative institution. There is also the likelihood that reappointment would increase party line loyalties. A Senator will invariably have to vote according to the values and position of the Federal Government in power if s/he wishes a reappointment. This can only lead to an increased pressure on the Senators to abandon the interests of their regions in favour of adherence to the agenda of the government in the House of Commons. This would effectively compromise the ability of the Senate to act as a “Chamber of sober second thought”.

---

<sup>20</sup> *Ibid.*

It should also be noted that the apparent ability of the Federal Government to reappoint Senators, if Bill S-4 becomes law, when combined with the apparent removal of the current age limit of 75, means that such individuals could remain in office longer than what is currently allowed under s. 29 of the *Constitution Act, 1867*.”<sup>21</sup>

The Premier of Newfoundland and Labrador recently wrote to Prime Minister Harper, with a copy to your Committee’s chair, to express his Government’s concerns with Bill S-4. He said the bill’s “potential for re-appointment would have a limiting effect on the independence of Senators, leaving future appointees beholden to the Prime Minister, and under pressure to curry favour with the Prime Minister so as to enhance the likelihood of re-appointment. This Bill, if enacted, would therefore diminish the independence of the Senate, its ability to act as a “chamber of sober second thought”, and its effectiveness in providing representation for regional and provincial interests.”<sup>22</sup>

In Britain, the proposals are clearly for one non-renewable 15-year term in the House of Lords. Lord Tyler, Liberal Democrat member of the House of Lords, told us:

“Most important of all, if we are to have the degree of independence from party control in future, whether it is from an elected base or from some form of nomination from the parties, we want people, once they come into the second chamber, whether we call it the Senate or whatever, to feel as free from party emphasis, party influence, party pressure as they can be.”<sup>23</sup>

We agree with the many witnesses and other representations which raised concern that the prospect of reappointment could significantly undermine the independence of Senators, and therefore the Senate as a whole. Few would argue that the independence of the Supreme Court of Canada would not be affected if the current tenure of its members – namely, appointment to the age of 75 – were altered to provide for 8-year terms, renewable at the sole discretion of the sitting Prime Minister (whose legislation and policy initiatives often come before the Court). The independence of Parliament’s second Chamber is no less important to our system of government. Accordingly, we have amended Bill S-4 to provide expressly that the 15-year term appointment for new Senators may not be renewed.

<sup>21</sup> Submission from Shawn Graham, Premier of New Brunswick, dated April 20, 2007, p. 6-7.

<sup>22</sup> Letter from Danny Williams, Q.C., Premier of Newfoundland and Labrador, dated May 30, 2007, p. 1.

<sup>23</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 28, 2007, Issue No. 24:12.



### III. 75-Year Age Limit

The *Constitution Act, 1867* originally provided for Senators to be appointed for life. This was considered the best guarantee of independence from the Government, similar to that afforded members of the judiciary. This provision was amended in 1965, to provide for tenure up to the age of 75. This amendment followed a similar change of tenure for members of Canada's judiciary.

Bill S-4 would remove that upper age limit, thus allowing Senators to be appointed and remain in office for their appointed 8-year term, even if that term takes the individual beyond the age of 75. For example, the Prime Minister could choose to appoint someone at the age of 73, and have that person serve the 8-year term, even though they would be in the Senate until the age of 81. As proposed, a Prime Minister could appoint a new Senator at the age of 75, 80 or even older, because there would no longer be any upper age limit. (The Bill, however, leaves intact the constitutional requirement that a Senator be at least 30 years old.)

Although not many witnesses who appeared before us addressed this issue, those who did were almost uniformly opposed to the proposal. For example, Professor Andrew Heard noted that since 1965 (when the 75-year retirement age was established), almost 23 per cent of senators have died before their end of term. He then continued:

"There is a larger consideration about how the chamber has to cope with this reality of people at an advanced age. It is not just the fact that people die at a much more frequent rate than MPs. In the same period, only 3 per cent of MPs have died, compared to 23 per cent of senators. It also has an impact on the Senate's work because of a number of senators being ill, having to take extended time off or perhaps not work as full hours as they would otherwise. Doing away with mandatory retirement would run the risk of further impacting the work of the Senate with these age-related issues. I see little reason to proceed with it, and I am concerned about the consequences of abolishing mandatory retirement."<sup>24</sup>

Other witnesses also recommended keeping the mandatory retirement age of 75, arguing it encourages a greater diversity of viewpoints in the Senate.

Your Committee was also struck by the contrast between the proposal in Bill S-4 and current efforts in progress now in the United Kingdom to reform the House of Lords. We held two hearings by teleconference from London, one with academics closely familiar with the House of Lords, and the second with three members of that House. Dr. Meg Russell, a close observer of the House of Lords both as an academic (now at University College London) and a consultant to the British Government and the Royal Commission on House of Lords reform in 1999, told our Committee:

<sup>24</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 21, 2007, Issue No. 23:44.

"We are in a rather different position from you. Obviously, you have already moved away from life tenure and toward retirement age 75. We have not got that far. For us, any move to less than life is quite a significant one."<sup>25</sup>

The Lords who testified spoke strongly in favour of a retirement age. Lord Howe of Aberavon, a Conservative, said, "We [the House of Lords] might need to set a retirement age because otherwise we have a predominantly elderly house. I am sure we need a kind of retirement system."<sup>26</sup>

Baroness Deech, a Crossbencher (independent member), said:

"It is more important to have a retirement age than to have a particular length of tenure. Whatever the length of tenure is, it should be such that you are not tempted to use your periods in the upper house as a springboard to a lucrative position in business or as prelude to being elected to the lower house. In other words, it should be a period of time toward the end of a career, without people being too old. To have a retirement age of 75 or something like that is a good idea -- perhaps an age comparable to that of judges. If judges stay wise until the age of 70 or 75, then I think senators can do so as well."<sup>27</sup>

Canadian judges are required to retire at the age of 75. Most Canadians retire from their work at the age of 65. In view of Professor Heard's statistical analysis, removing the current age limit could effectively return the Senate to a Chamber to which members are appointed for life.

We believe that it would be a step backward for the Senate to remove the provision requiring retirement at age 75. This may become appropriate if the Constitution is amended to provide for elected members of the Senate. However, no such proposal has been put forward by the current Government.

Removal of the 75-year age limit would likely have an effect on the nature and quality of the work of this Chamber, and undoubtedly also on the attitude of Canadians toward this Chamber. If, as we were told by the Government, a goal of this Bill is to ensure that the Senate experiences a renewal of ideas and perspectives, we are not convinced that removing the 75-year mandatory retirement is the optimal path to that goal. We refrain from speculating on the reason for this Government proposing this change while leaving the minimum age of 30 unchanged. There is no minimum age for the House of Commons.

<sup>25</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 22, 2007, Issue No. 23:105.

<sup>26</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 28, 2007, Issue No. 24:12.

<sup>27</sup> *Id.* 24:13.



We believe the amendment in 1965, that required Senators, like judges, to retire at the age of 75, was an appropriate improvement for the work and contribution of the Senate as a whole. We have heard no testimony that provides a convincing reason why this now should be revoked, but we have heard compelling testimony that the limitation should remain. Accordingly, we have amended Bill S-4 to maintain the constitutional provision requiring retirement of Senators at the age of 75.

#### **IV. Concerns as to the Constitutionality of Bill S-4**

During Second Reading debate of Bill S-4, the major concern of many senators was whether Parliament has the authority to adopt this constitutional amendment unilaterally pursuant to section 44 of the *Constitution Act, 1982*. This issue was considered by the Special Senate Committee on Senate Reform, which conducted a subject matter study of Bill S-4 as one part of its review of Senate Reform issues. Although that Committee concluded that changes to tenure could be accomplished through a reliance on section 44, a number of critical questions remained unresolved for many senators concerning the constitutionality of the Bill. This was the major reason for referring the Bill to the Standing Committee on Legal and Constitutional Affairs for further examination. The constitutionality of Bill S-4 was therefore a primary focus of our hearings. We sought to determine whether Parliament has the authority on its own to adopt the constitutional amendment set out in Bill S-4, or whether under the Constitution, this amendment in fact requires the agreement of the provinces.

#### *Amending Formulae*

The *Constitution Act, 1982* sets out four procedures whereby constitutional amendments may be adopted. The general procedure for amending the Constitution of Canada is set out in section 38. It permits amendments where authorized by each of the Senate and House of Commons, and by the legislative assemblies of at least 2/3 of the provinces that have at least 50 per cent of the population of all the provinces (the so-called 7/50 amending formula). Sections 41, 43 and 44 then set out three other amending procedures, for particular constitutional amendments. Section 41 enumerates certain amendments that require unanimous agreement among the Senate, House of Commons and the legislative assemblies of all the provinces. Section 43 relates to amendments that apply to one or more, but not all the provinces.

The position of the Government is that Bill S-4 may properly be passed under section 44. That section states in full:

s. 44. Subject to sections 41 and 42, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons.

As described above, section 41 refers to certain amendments which require unanimity, while section 42 deals with amendments which can only be made under the 7/50 amending formula set out in section 38.

Section 42(1) of the *Constitution Act, 1982*, reads as follows:

- s. 42. (1) An amendment to the Constitution of Canada in relation to the following matters may be made only in accordance with subsection 38(1):
- (a) the principle of proportionate representation of the provinces in the House of Commons prescribed by the Constitution of Canada;
  - (b) the powers of the Senate and the method of selecting Senators;
  - (c) the number of members by which a province is entitled to be represented in the Senate and the residence qualifications of Senators;
  - (d) subject to paragraph 41(d), the Supreme Court of Canada;
  - (e) the extension of existing provinces into the territories; and
  - (f) notwithstanding any other law or practice, the establishment of new provinces.

### *Historical Background*

Until 1982, the primary constitutional document was the *British North America Act of 1867*, now referred to as the *Constitution Act, 1867*. When it was enacted in 1867 by the British Parliament (interestingly, passed first by the British House of Lords and subsequently by the British House of Commons), there was no thought of providing a method of amending it other than through a subsequent Act of the United Kingdom Parliament.<sup>28</sup> As a result, there were a number of instances when the British Parliament was asked to adopt what one scholar described as “rather technical bills”, such as the Canadian Speaker (Appointment of Deputy) Act, 1895, which clarified the power of the Canadian Parliament to provide for a deputy speaker in the Senate. As the scholar observed, “This was not a satisfactory arrangement.”<sup>29</sup>

In 1949, the *British North America Act* was amended to permit the Parliament of Canada on its own to make certain amendments to the Constitution. The relevant provision was s. 91(1). It provided, in relevant part:

s. 91. .... it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated, that is to say,

<sup>28</sup> *Amending Canada's Constitution*. James Ross Hurley (1996), p. 7. There were minor exceptions, as described by Hurley. These are not relevant to the present issue.

<sup>29</sup> *Id.*, p. 12.



- (1) The amendment from time to time of the Constitution of Canada, except as regards matters coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the provinces, or as regards rights or privileges by this or any other Constitutional Act granted or secured to the Legislature or the Government of a province, or to any class of persons with respect to schools or as regards the use of the English or the French language or as regards the requirements that there shall be a session of the Parliament of Canada at least once each year, and that no House of Commons shall continue for more than five years from the day of the return of the Writs for choosing the House: provided, however, that a House of Commons may in time of real or apprehended war, invasion or insurrection be continued by the Parliament of Canada if such continuation is not opposed by the votes of more than one-third of the members of such House.

Before this section was repealed in 1982 and replaced by section 44, quoted above, section 91(1) was used five times. Notably for present purposes, it was used in 1965 to amend the provision that then gave Senators tenure for life by imposing compulsory retirement at age 75. The Supreme Court characterized all five of the amendments under s. 91(1) as “federal ‘housekeeping’ matters”.<sup>30</sup>

### *The Upper House Reference*<sup>31</sup>

In 1978, the Canadian Government, led by the Right Honourable Pierre Trudeau, referred a series of questions to the Supreme Court of Canada to determine whether the federal Parliament could pass legislation under s. 91(1) to abolish or to effect certain reforms to the Senate. One of the questions asked whether it was within the legislative authority of the Parliament to enact legislation “to change the tenure of members of [the Senate]”.

In its December 21, 1979 opinion, known as the *Upper House Reference*, the Court devoted considerable attention to the historical background that led to the creation of the Senate, quoting at length from the Confederation debates that detailed the purpose of the Senate, including the need to protect sectional [now referred to as regional] and provincial interests. The Court noted the role of the Senate in providing, as Sir John A. Macdonald had characterized it, “the sober second thought in legislation.” The Court said, “In creating the Senate in the manner provided in the Act, it is clear that the intention was to make the Senate a thoroughly independent body which could canvass dispassionately the measures of the House of Commons. This was accomplished by providing for the appointment of members of the Senate with tenure for life.”<sup>32</sup>

<sup>30</sup> *Authority of Parliament in relation to the Upper House (Re)*, [1980] 1 S.C.R. 54, 65 (hereinafter the *Upper House Reference*).

<sup>31</sup> *Authority of Parliament in relation to the Upper House (Re)*, [1980] 1 S.C.R. 54.

<sup>32</sup> *Id.*, at p. 77.

The Court rejected the suggestion that section 91(1) could be used to abolish the Senate, and summed up its response to the various specific Senate reform questions as follows:

“...[I]t is our opinion that while s. 91(1) would permit some changes to be made by Parliament in respect of the Senate as now constituted, it is not open to Parliament to make alterations which would affect **the fundamental features, or essential characteristics**, given to the Senate as a means of ensuring regional and provincial representation in the federal legislative process. The character of the Senate was determined by the British Parliament in response to the proposals submitted by the three provinces in order to meet the requirement of the proposed federal system. It was that Senate, created by the Act, to which a legislative role was given by s. 91. In our opinion, **its fundamental character cannot be altered by unilateral action by the Parliament of Canada** and s. 91(1) does not give that power.”<sup>33</sup> (emphasis added)

On the particular question whether Parliament could act unilaterally under s. 91(1) to change the tenure of members of the Senate, the Court said:

“At present, a senator, when appointed, has tenure until he attains the age of seventy-five. **At some point, a reduction of the term of office might impair the functioning of the Senate in providing what Sir John A. Macdonald described as “the sober second thought in legislation”.** The Act contemplated a constitution similar in principle to that of the United Kingdom, where members of the House of Lords hold office for life. The imposition of compulsory retirement at age seventy-five did not change the essential character of the Senate. **However, to answer this question we need to know what change of tenure is proposed.**”<sup>34</sup> (emphasis added)

### Discussion

The *Upper House Reference* was decided in 1979; the Constitution was patriated in 1982, at which time s. 91(1) was repealed and the amending formulae consisting of sections 38, 41, 43 and 44 were enacted. One of the questions before us was whether the *Upper House Reference* continues to apply as good law, or whether it was superseded by the passage of the *Constitution Act, 1982*. Put another way, was section 44 intended to give Parliament new powers, or was it intended to substantially reproduce the former subsection 91(1)?

The current Government put forward Bill S-4 arguing that those alterations which, using the language of the Supreme Court, “would affect the fundamental features, or essential characteristics, given to the Senate as a means of ensuring regional and provincial representation in the federal legislative process,” and therefore require provincial consent, have all been codified in section 42 of the *Constitution Act, 1982*. In other words, if a proposed change to the Senate is not enumerated in section 42, then it may be effected by Parliament acting unilaterally under section 44. This position was stated on behalf of the Government to our Committee by

<sup>33</sup> *Id.*, at p. 78-79.

<sup>34</sup> *Id.*, at p. 76-77.



Matthew King, Assistant Secretary to the Cabinet, Legislation and House Planning, Privy Council Office:

"It is the government's position that the chosen approach, namely, to amend section 29 of the Constitution Act, 1867, using section 44 of the Constitution Act, 1982, is entirely constitutional.

The government's view is based on its opinion that the elements of Senate reform that require the use of the general amending formula, the so-called 7/50 amending formula are clearly set out in section 42 of the 1982 Act, those being section 42(b), the powers of the Senate and the method of selecting senators, and section 42(c), the number of members by which a province is entitled to be represented in the Senate and the residency qualification of senators.

As tenure is not one of the elements specified in section 42, it is the Government's position that Parliament has the power to enact Bill S-4 through the use of section 44."<sup>35</sup>

This position is buttressed by the preamble to Bill S-4, which uses the language of the *Upper House Reference*, saying:

WHEREAS Parliament wishes to maintain the essential characteristics of the Senate within Canada's parliamentary democracy as a chamber of independent, sober second thought.

However, as Joseph Magnet, a constitutional law professor at the University of Ottawa, told us very clearly:

"To some extent, the "whereas" clauses provide some insight as to the purpose. The "whereas" clauses refer to the democratic principle. They also try to provide some supports – may I say, perhaps a little self-servingly – to try to bring the Bill S-4 amendment into the understood permissible limits of the old section 91(1). In other words, the "whereas" clauses say that a purpose is to preserve the essential characteristics of the Senate as a chamber of sober second thought. The "whereas" clauses say that specifically. It is an interesting and helpful statement but it is not overriding."<sup>36</sup>

The overwhelming weight of testimony that our Committee heard supported the proposition that the *Upper House Reference* continues as good law, and that section 44 does not provide Parliament with any greater amending powers than existed under the former subsection 91(1). For example, Professor Magnet told the Committee:

<sup>35</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 21, 2007, Issue No. 23:9.

<sup>36</sup> *Id.* 23:49.

"The whole idea of the patriation bill was to leave things as they were, except to patriate the Constitution and the Charter of Rights and Freedoms with an amending formula. The patriation bill was specifically justified as not increasing the powers of Parliament. Section 31 of the Constitution Act, 1982, makes this intention plain. It says, "nothing in this charter extends the legislative powers of Parliament." That intent carries by design to section 44, in which, although not in the Charter, the marginal notes make clear that nothing changes.

The upshot of this is that section 44 is no larger in scope than the old section 91(1). Section 44, in my respectful opinion, cannot support legislation that would change the fundamental features or the essential character of the Senate. Contrary to some of the opinions senators have heard, it is my advice that if a court sees in Bill S-4 the first step in changing these fundamental features, section 44 will not necessarily support it. Section 44 does not give Parliament increased powers to change the essential characteristics of the Senate except for the four matters mentioned in section 42(b) and (c)."<sup>37</sup>

Other constitutional experts testified to the same conclusion, including constitutional law Professor John McEvoy of the University of New Brunswick, who supported his position with excerpts from the historical record of deliberations at the time of consideration of the *Constitution Act, 1982*. He told us of a motion that was introduced in 1981 by the Honourable Jake Epp to specifically exclude the Senate from the unilateral federal amending power (the section that would become section 44) altogether. Explaining his purpose, Mr. Epp stated:

"This amendment would assure that the role and scope of the Senate could not be changed simply through the House or a federal initiative."

Professor McEvoy told us that Mr. Epp withdrew this amendment only after he was assured by the Minister of Justice that this amendment was unnecessary, as the federal amending power was limited in scope, applying only to internal issues such as a change in quorum in the Senate. He said:

"The significance of this historical record is that the stated intention at the time of consideration of what became the *Constitution Act, 1982* – at least as expressed before the 1981 Special Joint Committee on the Constitution, co-chaired by Senator Joyal – was to maintain the status quo."<sup>38</sup>

---

<sup>37</sup> *Id.*, 23:51-52.

<sup>38</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 22, 2007, Issue No. 23:82.



Professor Andrew Heard pointed out a critical problem with the current Government's reasoning that if something is not specifically enumerated in sections 41 or 42, then it may be amended unilaterally by Parliament under section 44. Professor Heard had testified before the Special Committee on Senate Reform. That Committee stated in its report that Professor Heard believed that section 44 permits Parliament to act alone in reducing Senate tenure. When he appeared before our Committee, however, Professor Heard told us that he had reconsidered, and changed his opinion since testifying previously. He presented a powerful argument.

Professor Heard pointed out that section 42 cannot be an exhaustive list of those items that cannot be unilaterally changed by Parliament, as a number of critical items are absent. For example, the old section 91(1) explicitly provided that the federal amending power could not be used to change the requirement that there must be an election at least every five years. That is not listed anywhere in the amending powers of the 1982 Constitution. Similarly, the right to vote in a federal election is not addressed in any of the amending formulae. Both matters arguably are amendments "in relation to the... House of Commons" that are not specifically listed in section 41 or 42 as requiring provincial consent. Yet it would be absurd to argue that Parliament has the right to pass an amendment that would give it the right to stay in power for 10, 20 or 30 years without a general election, or to limit the right to vote, for example to the majority party's supporters. As Professor Heard said:

"If one took the argument that section 44 literally only has the exceptions applied in sections 41 and 42, then Parliament could do away with the five-year limit. It could, in theory, perhaps, do away with the right to vote and being candidates. **No Supreme Court will accept that and that is precisely my point: They will read further context into the limits that are imposed in that literal reading of section 44.**"<sup>39</sup> (emphasis added)

Henry Brown, Q.C., of the law firm Gowling, Lafleur Henderson, and constitutional law Professor Errol Mendes agreed with Professor Heard's argument. His logic is compelling and we agree, as well.

The next question, then, is: is Bill S-4 a permitted exercise of unilateral federal authority under section 44, within the limits described by the Supreme Court in the *Upper House Reference*? Here again, the overwhelming weight of expert evidence heard by our Committee concluded that there are significant constitutional concerns as to whether this bill can properly be passed by Parliament alone, without the involvement of the provinces.

An important factor for several constitutional experts was the Government's introduction of Bill C-43 in the House of Commons on December 13, 2006. That Bill would provide for "consultative elections" to determine electors' preferences for the appointment of senators to represent a province. At the time that the subject matter of Bill S-4 was considered by the Special Committee on Senate Reform, the Prime Minister, the Right Honourable Stephen Harper, testified before that Committee and stated his Government's belief "that the Senate

<sup>39</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 21, 2007, Issue No. 23:76.

should be elected".<sup>40</sup> He also declared his Government's intention to "introduce a bill in the House of Commons to create a process to choose elected senators. This bill will further demonstrate how seriously the government takes the issue of serious Senate reform."<sup>41</sup>

No bill was introduced during the Special Committee's study, and therefore could not be considered by that Committee. Bill C-43 was only tabled in the House of Commons almost two months after the Special Senate Committee concluded its study on the subject matter of Bill S-4.

The Government's position is that Bills S-4 and C-43 should not be considered together, but rather each on its own. Mr. Matthew King of the Privy Council Office told us:

"It is the view of the Government that these bills [S-4 and C-43] are not tied one to the other. Rather, the Government has made it clear that the two bills stand alone and each should be considered on their own merit."<sup>42</sup>

We appreciate that the Government wishes us to consider Bill S-4 on its own, separate from Bill C-43. However, the testimony of constitutional law experts made it clear that a court would likely proceed differently by looking closely at all the initiatives for Senate reform.

Professor Magnet, who was clear that he was simply presenting his best impartial advice, took us through a careful analysis of how a court would approach the question of the Bill S-4's constitutionality, should it be seized of it. He said:

"First, a court would use the tested and true method of constitutional analysis referred to in so many of the Supreme Court of Canada precedents. The court would ask: What is the object and purpose, the pith and substance, the legal and practical effect of this amendment?"<sup>43</sup>

To answer this question, Professor Magnet looked at a number of factors, including the substance and preamble to Bill S-4, the history of Senate reform proposals, and Prime Minister Harper's statements before the Special Committee on Senate Reform. He then testified:

---

<sup>40</sup> *Proceedings of the Special Senate Committee on Senate Reform*, September 7, 2006, Issue No. 2:9.

<sup>41</sup> *Id.* 2:8.

<sup>42</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 21, 2007, Issue No. 23:10.

<sup>43</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 21, 2007, Issue No. 23:49.



"This makes it clear that Bill S-4 is part of more to come. All of this will tempt a court to see Bill S-4 as part of an overall design with an object and purpose, a pith and substance to change, step by step, the regional representation, first, by changing tenure; second, by providing for election; and, as Prime Minister Harper said, lastly, by trying to create, probably through constitutional amendment, a change in provincial representation."<sup>44</sup>

Professor Magnet told the Committee that in his opinion, a Court would consider this to fall outside the scope of those amendments permitted under section 44. He said, "Section 44, in my respectful opinion, cannot support legislation that would change the fundamental features or the essential character of the Senate. Contrary to some of the opinions senators have heard, it is my advice that if a court sees in Bill S-4 the first step in changing these fundamental features, section 44 will not necessarily support it."<sup>45</sup>

He concluded:

"I believe there is a real risk that Bill S-4 will not survive constitutional scrutiny. I believe there is a real risk. I do not say it will not survive, I simply say there is a real risk that it will not survive; and I cannot be more precise than that."<sup>46</sup>

Professor Magnet's testimony was persuasive for Roger Gibbins, the President and Chief Executive Officer of Canada West Foundation, who has been one of the longest-standing advocates of Senate reform in Canada. He appeared before our Committee (as he had appeared before the Special Committee on Senate Reform) arguing strongly in favour of Bill S-4. However, after listening to Professor Magnet, Mr. Gibbins told our Committee:

"I am still reeling somewhat from Professor Magnet's comments because he raised concerns in my mind about the constitutionality that were not there earlier in the day. He made the argument, quite persuasively, that if the court sees this as the first step, it would likely strike it down. At least, that is the bottom line that I read.

If that message sinks in and if it stands up, and it sounded pretty persuasive today, then going the Supreme Court reference [route] may make sense. More fundamentally, it is an invitation to the Supreme Court to shut the process down.

I am caught here. I am not sure what to do because I always believed that some element of Senate reform is necessary to strengthen the ties that Canadians have to their national Parliament, and to have this debate simply shut down and not have another government touch it for another generation or two would have adverse consequences for the country.

---

<sup>44</sup> *Id.*, 23:50.

<sup>45</sup> *Id.*, 23:52.

<sup>46</sup> *Ibid.*

I am torn on this. I would say that the test you have heard this evening has introduced more serious questions in my mind about the constitutionality of what we are doing, and I find that deeply depressing, but also somewhat convincing.<sup>47</sup>

Professor Errol Mendes, another professor of constitutional law, agreed with Professor Magnet:

**"It is generally known that Bill S-4 is only a precursor to a larger attempt to have future appointments to the Senate come under a federally regulated advisory elections framework. In my view, if the two statutes or two attempts are linked, it profoundly is unconstitutional.**

In my view, this is an attempt to do what cannot be done directly without the clear instructions of section 42 and the general amending formula. Keep in mind that the patriation reference decision in 1981 informed the then Prime Minister, Pierre Trudeau, that he would breach constitutional convention if he repatriated the Constitution without the substantial consent of the provinces yet the Supreme Court of Canada halted that attempt and the rest is history.

In the development of the federal advisory elections of the Senate, we have a much more serious attempt linked to Bill S-4. This does indirectly what cannot be done directly, both under constitutional conventions and under the Constitution Act 1867 and 1982, without the involvement of provinces and provincial consent.

...

**In conclusion, with all the arguments I have presented, there is good reason to suggest that Bill S-4 should be withdrawn until further study is undertaken to understand what is really at stake in this piecemeal and dubious attempt to reform the Senate so that it is consistent with the principles of modern democracy.**<sup>48</sup> (emphasis added)

Provincial governments similarly conclude that the two bills must be considered together. The Honourable Marie Bountrogianni, Minister of Intergovernmental Affairs and Minister responsible for Democratic Renewal for the Government of Ontario, wrote that:

---

<sup>47</sup> *Id.*, 23:56-57.

<sup>48</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 29, 2007, Issue No. 24:63-64.



"I agree with the legal and constitutional experts who testified before your Committee that Bills C-43 and S-4 should be considered together, rather than in isolation. Bill S-4 and Bill C-43 are inextricably linked. Without term limits, Senators would be effectively elected for life; without elections, the Prime Minister's appointment power would be excessive. Together, the inevitable changes occasioned by these pieces of legislation would fundamentally alter the functioning of Parliament by changing the essential character of the Senate. Yet, the federal government introduced legislation without meaningfully consulting provinces or obtaining provincial consent."<sup>49</sup>

The Government of Quebec recently wrote to your Committee, and told us that with the introduction of Bill C-43,

"[T]he federal government's intentions are now known. Bill S-4 can no longer be taken in isolation. It must now be considered in light of Bill C-43, for its effect is different depending on whether the current method of selecting senators stays the same or is changed.

Were it not for Bill C-43, the fixed eight-year term should be non-renewable, for reasons of independence. On the other hand, if the Senate becomes an elected chamber, as contemplated by Bill C-43, then the renewable character of the term becomes an important accountability mechanism.

Since Bill S-4 does not oppose the renewability of the eight-year term, we can therefore recognize that there is an organic link between Bill S-4 and Bill C-43. The two bills are thus to be seen as two components of a single federal legislative initiative whose overall objective is 'to create an elected Senate', to use Prime Minister Harper's phrase. The apprehensions expressed by the Government of Quebec in September 2006 with regard to the federal government's intentions are confirmed with the addition of Bill C-43.

**This context leads the Government of Quebec to reconsider its support for Bill S-4 because it can no longer be considered a limited measure. It is a measure that is now part of a broader initiative revealed by Bill C-43.**<sup>50</sup> (emphasis added)

The Government of Quebec also raised questions about the relationship between the proposed reforms to the Senate and Bill C-56, an Act to amend the Constitution Act, 1867 (Democratic representation), which the federal government tabled in the House of Commons on May 11, 2007. The Government of Quebec wrote:

<sup>49</sup> Letter from Dr. Marie Bountrogianni, Minister of Intergovernmental Affairs and Minister Responsible for Democratic Renewal, Government of Ontario, dated May 30, 2007.

<sup>50</sup> Submission from Benoit Pelletier, Minister Responsible for Canadian Intergovernmental Affairs, Francophones within Canada, the Agreement on Internal Trade, the Reform of Democratic Institutions and Access to Information, Government of Quebec, dated May 31, 2007, pp. 4-5.

“Although the Senate of Canada has been unable to fully meet the objectives that underlay its creation, it nonetheless remains an integral component of the compromise that gave birth to Canada in 1867, and it is closely tied to the balance of the federation in general and to the balance of the forces at play in the Parliament of Canada in particular.

Even in matters concerned with the composition of the House of Commons, the federal context has an influence. Indeed, proportionality there cannot be reduced to a simple mathematical fact. It must follow from a subtle trade-off between various factors, one being the need for Quebecers as a nation to maintain an effective place within federal institutions so that their voices can be usefully heard in the governance of our country.

Bill C-56, which would reduce Quebec’s weight in the House of Commons, is in this context another major source of concern with respect to the current federal initiatives in the institutional sphere. This is another bill whose withdrawal was requested by a unanimous resolution adopted by Quebec’s National Assembly on May 16, 2007.

The federal government’s legislative objectives for the Senate also may prompt demands concerning the distribution of seats in the Senate. This is a matter which, from the standpoint of the Government of Quebec, and as it pointed out before the Special Senate Committee, the interests at play have deep roots which touch upon Canadian duality and the very origins of the federation.

It must always be remembered that the overall balance of representation in the federal Parliament was a crucial issue for Quebec in 1867 and continues to be one for the Quebec of today.”<sup>51</sup>

Professor Emeritus Alan Cairns urged us to view Bill S-4 as only the first of a three-stage process of Senate reform – tenure, consultative elections, and redistribution of seats. He told us:

“This forces senators to make a very complicated judgment. They must decide, among other things, if stage one is an acceptable fallback position if stage two does not get proceeded with because it gets defeated in one or the other House. There is, therefore, the complicated conundrum that it is intellectually possible to support stage one because you support it as a basis for succeeding with stage two but oppose it as a stand-alone provision.

---

<sup>51</sup> Id., pp. 8-9.



The problem is that senators lack the choice simultaneously to oppose it as a stand-alone provision but to support it because they like stage one and stage two when they are bound together. Stage two obviously changes the role of the Prime Minister and changes the nature of those that get elected.

The report of the earlier committee argued that Bill S-4 is "not linked to prospective advisory election legislation in a way that precludes its consideration as a stand-alone measure." However, the proceedings of the previous committee made it very clear that many witnesses argued that Bill S-4 by itself was unacceptable without an advisory election process.

We have to ask ourselves the question, then, as we decide how to vote on stage 1: Suppose there is no stage two implementation; have we then improved the system? By itself, I would argue that **stage one not followed by some version of stage two has negative consequences because it would simply increase the power of the Prime Minister in the appointing process** by the rapid turnover which he would have completely under his control for successive eight-year periods."<sup>52</sup> (emphasis added)

However, even viewing Bill S-4 on its own, as the Government would wish, there are still concerns that it exceeds the authority of Parliament under section 44, and requires the involvement of the provinces. For example, constitutional law professor John McEvoy testified:

"The decision to alter Senate tenure to eight years, whether or not open to a second term on an individual basis, is of such importance that, in my view, it goes beyond a matter of interest to the federal Parliament alone. It is not an internal modification to the Senate; it is a structural change that should involve a level of provincial consent. The historical and structural approaches to constitutional interpretation support this conclusion. It is a change that should be considered along with reform of the method of selection."<sup>53</sup>

Professor McEvoy was also clear that in his view, the proposed changes in Bill S-4 would affect the Senate's role as a body of regional representation, because that role is an integral part of its roles as a revising body and body of inquiry:

"Regional representation, inquiry role and revising role are three symbiotic parts of the role of the Senate. A regional representative is not only to represent the views of that particular region in one single role, but in all of its roles. The voice of the Senate is very important, and I would disagree with the premise that one should divide the Senate into those three distinct roles. They are symbiotic."<sup>54</sup>

<sup>52</sup> *Id.*, March 28, 2007, Issue No. 24:36-37.

<sup>53</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 22, 2007, Issue No. 23:85-86.

<sup>54</sup> *Id.*, 23:93

Professor Don Desserud of the University of New Brunswick testified:

"My points are simple; I have two to make. First, I believe that this amendment does not fall under section 44 and does fall under section 42. Second, I think comparisons to previous amendments, which reduced the tenure of senators by imposing the 75-year retirement age, are not directly comparable to this one....

Section 42 says that amendments in relation to the powers and methods of appointments of senators use the general amending formula – the seven-50 rule. It does not say amendments that drastically change the powers or amendments that improve the powers; it says amendments in relation to the powers.

... I do not see how changing the tenure of senators to fixed eight-year terms can be seen as anything but a change in the powers of the Senate."<sup>55</sup>

Professor David E. Smith of the Saskatchewan Institute of Public Policy, who has written extensively on the Senate of Canada, told us:

"On September 20, 2006, I appeared before the Special Senate Committee on Senate Reform to discuss Bill S-4 on Senate tenure. In those remarks, I said that I thought that the fundamental character of the Senate of Canada, to be inferred from the criteria for appointment established at Confederation: that is, age and property qualifications of nominees; life tenure, originally; a fixed number of senators; and that enunciated 90 years later by the Supreme Court of Canada in its Senate reference opinion that that criterion is independence. Any proposal to alter the Senate, whose effect would compromise the Senate's independence and which, at the same time, has not met some standard of provincial concurrence for amendment of the Constitution -- a set of circumstances, I believe, that echoes those leading to the reference opinion itself in 1980 -- would undermine the essential characteristic of the upper house in my view.

The government maintains that the proposed change to a fixed term of eight years for senators in place of a mandatory retirement age of 75 may be implemented by Parliament acting alone under section 44 of the Constitution Act, 1982. Honourable senators have heard contradictory testimony from constitutional experts as to the soundness of that position. **My own view is that a fixed term for senators -- whether renewable, or elected or appointed, challenges the principle of independence that the Fathers of Confederation sought to entrench in the structure of the Senate and which the Supreme Court of Canada reiterated in 1980.**"<sup>56</sup> (emphasis added)

---

<sup>55</sup> *Id.*, 23:87.

<sup>56</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, April 25, 2007, Issue No. 25, 32-33.



Professor Jennifer Smith, Chair of the Department of Political Science at Dalhousie University, was blunt in her characterization of the potential impact of Bill S-4:

"I am not certain about whether it is constitutionally valid under section 44 for the Parliament of Canada to make this change. The reason I say that is simply because I can imagine the argument on the other side. I can imagine the argument that might be presented to a court and how they might come to the conclusion that an eight-year renewable term has enough of an impact on the functioning of the Senate that it gets to the power of the Senate and, therefore, **you are arbitrarily changing what is, after all, a foundational institution of Confederation. That is like pulling a rug out from under the people of Canada.** That is an issue."<sup>57</sup> (emphasis added)

And in fact, this is an issue of significant concern to a number of provincial governments. Several of the governments which have written to us expressed their disagreement with the unilateral attempt by the current Government to reform the Senate.

The Premier of New Brunswick, Shawn Graham, wrote to our Committee on April 20, 2007. He said:

"The Government of New Brunswick has carefully considered the proposed amendment [Bill S-4] and is not able to support this amendment in its current form. **The Government of New Brunswick does not accept the conclusions of the [Special Senate Reform] Committee that the Government of Canada has the constitutional authority to unilaterally proceed with this proposed change to the tenure of Senators. Our review of jurisprudence on this issue, contained in the attached position paper, supports the view that the provinces must give consent to any change that affects representation in the Senate.**

Without other substantive changes to the Senate, the limitation of the tenure of Senators to eight years is more likely to reduce the effectiveness of this forum for regional and sectoral interests in Parliament than to improve it. The absence of any detail regarding the selection of Senators and their eligibility to be reappointed (or not) is also an area of concern.

---

<sup>57</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 28, 2007, Issue No. 24:41.

**The genius of the Canadian Constitution is the careful balance that has been struck between the more populated and less populated regions of the country as well as between the rights of the majority and the protection of minorities. While a term limit of eight years might be appropriate as part of a comprehensive reform of the Senate, a piecemeal and unilateral approach by the Government of Canada to Senate Reform has the potential to lead to a highly unsatisfactory and divisive result.**<sup>58</sup> (emphasis added)

The concerns expressed by Premier Graham are shared by the Government of Ontario. The Honourable Marie Bountrogianni, Minister of Intergovernmental Affairs and Minister Responsible for Democratic Renewal, Government of Ontario, wrote recently to your Committee, expressly endorsing the constitutional and other concerns outlined by Premier Graham in his letter.<sup>59</sup>

Minister Bountrogianni had testified before the Special Committee on Senate Reform. After making it clear that Senate reform is not a priority for the Ontario Government, she said:

**“When the Senate was established at the time of Confederation, it was established on the basis of appointed senators, lifetime tenure, and regional equality, rather than representation by population. Clearly, changing any of these pieces is a significant departure from the intended role of the Senate, that of “chamber of sober second thought,” and requires a full national discussion and the consent of the Canadian public.”**<sup>60</sup> (emphasis added)

In her recent letter to your Committee, Minister Bountrogianni reiterated her Government’s reservations regarding the unilateral nature of the federal government’s proposed Senate reforms, saying, “I believe it is appropriate under our constitutional federal system that significant changes to federal institutions are agreed to by both partners – the federal government and the provinces. All Premiers, in a July 28, 2006 communique, agreed that ‘the Council of the Federation must be involved in any discussion on changes to important features of key Canadian institutions such as the Senate and the Supreme Court of Canada.’”<sup>61</sup>

Specifically with respect to Bill S-4, Minister Bountrogianni wrote:

**“Turning to the reforms proposed in Bill S-4, the Government of Ontario generally endorses the constitutional and other concerns outlined by Premier Graham in his letter of April 20, 2007 to your Committee. Piece-meal and unilateral Senate reform has “the potential to lead to a highly unsatisfactory and divisive result.” I note that**

<sup>58</sup> Letter from Shawn Graham, Premier of New Brunswick, dated April 20, 2007.

<sup>59</sup> Letter from Dr. Marie Bountrogianni, Minister of Intergovernmental Affairs and Minister Responsible for Democratic Renewal, Government of Ontario, dated May 30, 2007.

<sup>60</sup> *Proceedings of the Special Senate Committee on Senate Reform*, September 21, 2006, 5:50.

<sup>61</sup> Letter from Dr. Marie Bountrogianni, Minister of Intergovernmental Affairs and Minister Responsible for Democratic Renewal, Government of Ontario, dated May 30, 2007.



similar concerns regarding an incremental reform approach were raised by the Governments of Saskatchewan and Newfoundland and Labrador.

Bill S-4, on its own, would dramatically alter the real functioning of the Senate, detracting from its traditional role as an independent chamber of sober second thought. The Bill is silent on the issue of term renewals, which means that Senators could become unduly beholden to the Prime Minister if seeking a new term. They may be prone to follow the dictates of the Prime Minister, who, by the end of two terms in office, could conceivably have filled the Senate with members of his own party.

The Prime Minister's new power to appoint every member of the Senate over eight years would significantly expand his appointment power and impair the independent functioning of the upper chamber. The result would be a partisan institution with nearly co-equal powers to the House of Commons and an institution that would be more likely to exercise those powers in order to please or obstruct a government, creating an untenable situation.

In addition, the Government of Ontario is concerned that the federal government has also introduced Bill C-43, the *Senate Appointment Consultations Act*. Bill C-43 establishes a new process for selecting senators in the form of so-called "advisory" elections. The Prime Minister himself has not hesitated to link the two pieces of legislation as part of his broader Senate reform agenda. I agree with the legal and constitutional experts who testified before your Committee that Bills C-43 and S-4 should be considered together, rather than in isolation.

Bill S-4 and Bill C-43 are inextricably linked. Without term limits, Senators would be effectively elected for life; without elections, the Prime Minister's appointment power would be excessive. Together, the inevitable changes occasioned by these pieces of legislation would fundamentally alter the functioning of Parliament by changing the essential character of the Senate. Yet, the federal government introduced legislation without meaningfully consulting provinces or obtaining provincial consent.

...

The Government of Ontario has concerns about the constitutionality of Bill S-4 and Bill C-43 and notes that serious questions on this point were also raised by a variety of legal scholars and political scientists before both your Committee and the Special Committee."<sup>62</sup>

---

<sup>62</sup> Ibid.

The Premier of Newfoundland and Labrador, Danny Williams, Q.C., wrote to the Prime Minister to express his Government's view that Bill S-4 and Bill C-43 "represent attempts to alter the Constitution of Canada so as to significantly change the powers of the Senate and the method of selecting Senators within the meaning of Section 42(1)(b) of the *Constitution Act, 1982*. Such constitutional amendments may not be made by acts of Parliament alone, but also require resolutions of the legislatures of at least two-thirds of the provinces that have, in the aggregate, at least fifty per cent of the population."<sup>63</sup> He said:

"The choices that we make about our national institutions are fundamental choices about how Canadian society represents itself through sovereign government. These choices should not be made lightly. They will have long-lasting effects on the way that our society is governed and the operation of the Federation. Any changes should be carefully considered by both constitutional orders of government in the context of a national public debate. The current piecemeal and unilateral approach does not suffice. There are many reasons to believe that Bills S-4 and C-43, if passed, will have numerous unintended and negative consequences. They also only address some of the aspects of the Senate that could be reformed. I understand that you have taken this approach because the threshold for changing the Constitution is so high. But it is so by design; constitutions are the basic rules that shape our democracy and should not be easy to change. Constitutional change should take place after careful and thorough consideration.

Changes to an essential national institution like the Senate should involve government-to-government consultation. You will recall that this is the position upon which all Premiers agreed at the Council of the Federation meeting in St. John's last July. However, there have been no indications that government-to-government consultations are planned, much less any attempt to seek the endorsement of provincial legislatures for the reforms proposed.

In light of the concerns outlined above, the Government of Newfoundland and Labrador requests that your Government withdraw Bills S-4 and C-43. While we would prefer that you not reinstate your Senate reform initiative, if you do it should be in the form of a comprehensive reform package, developed through formal government-to-government consultation, and with reference to the general constitutional amending formula in section 38(1) of the *Constitution Act, 1982*.<sup>64</sup>

The Premier of Nunavut, Paul Okalik, recently wrote to your Committee making it clear that his Government believes that Senate reform, including the proposed change to an 8-year term, should proceed through a single, comprehensive reform process involving the provinces and territories. He wrote:

<sup>63</sup> Letter from Danny Williams, Q.C., Premier of Newfoundland and Labrador, dated May 30, 2007.

<sup>64</sup> *Ibid.*



"I feel it is critical that the provinces and territories be involved in any constitutional reform and this is particularly true of Senate reform.

The Government of Nunavut believes that there are several issues which should be examined with respect to Senate reform. The Government of Nunavut is interested in making representations and working with the Government of Canada and the other provinces and territories to make the Senate more effective and representative. In particular, the representation in the Senate for northerners is something which requires attention.

**However, such reform, including the proposal for a fixed 8 year term for Senators set out in Bill S-4, is best addressed through a single, comprehensive reform process which is consistent with the Constitution.**<sup>65</sup>

The Government of Quebec was unequivocal in its assessment of the impact of the reforms to the Senate proposed by the current federal Government. Minister Pelletier (an acknowledged constitutional law expert) wrote that, "The transformation of the Senate raises some fundamental issues for Quebec and the Canadian federation in general.... The federal bills on the Senate do not represent a limited change."<sup>66</sup> He later noted, "In short, the Senate exists in a complex and coherent constitutional environment that is tied to considerations underlying the federal compact and the balance of intergovernmental relations."<sup>67</sup>

The Quebec Government was blunt in its view of the required course of action with respect to Bill S-4:

"In summary, the Government of Quebec considers that the federal legislative initiative represented by bills S-4 and C-43 is liable to modify the nature and role of the Senate, in a manner which departs from the original pact of 1867.

Such changes are beyond the unilateral powers of the Parliament of Canada. They instead require a coordinated constitutional amendment formula, which in turn requires the participation and consent of the provinces.

The well-known legal rule that one may not do indirectly what cannot be done directly fully applies to the amendment process that is in question here with bills S-4 and C-43.

<sup>65</sup> Letter from Paul Okalik, Premier of Nunavut, dated May 18, 2007.

<sup>66</sup> Submission from Benoit Pelletier, Minister Responsible for Canadian Intergovernmental Affairs, Francophones within Canada, the Agreement on Internal Trade, the Reform of Democratic Institutions and Access to Information, Government of Quebec, dated May 31, 2007, p. 6.

<sup>67</sup> *Id.*, p. 7.

The Government of Quebec is not opposed to modernizing the Senate. But if the aim is to alter the essential features of that institution, the only avenue is the initiation of a coordinated federal-provincial constitutional process that fully associates the constitutional players, one of them being Quebec, in the exercise of constituent authority.

The Government of Quebec, with the unanimous support of the National Assembly, therefore requests the withdrawal of Bill C-43. It also requests the suspension of proceedings on Bill S-4 so long as the federal government is planning to unilaterally transform the nature and role of the Senate.<sup>68</sup> (emphasis added)

The only provincial government on record as supporting Bill S-4 is that of Alberta. The Government of Saskatchewan, while acknowledging that it has received legal advice that Bill S-4 could be enacted pursuant to section 44 of the *Constitution Act, 1982*, nevertheless has repeated several times that it does not support an incremental approach to reforming the Senate “and does not support Bill S-4”.<sup>69</sup>

The Government of British Columbia wrote to your Committee saying first that Senate and constitutional reform are not a high priority for that Government; British Columbia favours abolishing rather than reforming the Senate; failing that, “substantive changes would be required to make the Senate a truly effective body that would enrich our federal parliamentary system and fairly represent British Columbia’s role in the federation.” Minister van Dongen told us that his Government recognizes that there are differing views on the appropriate constitutional amending process, and “British Columbia does not have strong views on either the substance of the bill [S-4] or its constitutional implications at this time.”<sup>70</sup>

In summary, your Committee received representations opposing the proposed unilateral Senate reforms contained in Bill S-4 from the governments of the two largest provinces in Canada and the governments of two of the smallest provinces and one territory. In total, these governments represent significantly more than 50 per cent of the population of the country, and three out of the four regions described in our Constitution. Only one province has come forward supporting the Bill. Other provinces have expressed at best ambivalence and more generally opposition to the proposed incremental approach.

As was reiterated by the Supreme Court of Canada in the *Upper House Reference*, a fundamental, indeed critical role of the Senate of Canada is to protect and defend regional and provincial interests against the combination of majorities in the House of Commons. As Sir John A Macdonald said during the Confederation debates at the Quebec Conference, quoted by the Supreme Court of Canada:

<sup>68</sup> *Id.*, p. 11.

<sup>69</sup> Letter from Harry Van Mulligan, Minister of Government Relations for Saskatchewan, dated May 29, 2007. See also his prior correspondence dated March 21, 2007 and September 22, 2006.

<sup>70</sup> Letter from John van Dongen, Minister of State for Intergovernmental Relations for British Columbia, dated May 30, 2007.



"To the Upper House is to be confided the protection of sectional [now referred to as regional] interests: therefore is it that the three great divisions are there equally represented for the purpose of defending such interests against the combinations of majorities in the Assembly."<sup>71</sup>

We believe the concerns expressed by these governments must be afforded considerable weight. If we do not represent the interests of our regions and provinces now, when what is at stake is the very institution established to defend those interests, then we give justification to those critics who question our continued value in Canadian parliamentary democracy.

### Conclusion

The overwhelming weight of testimony that our Committee heard supported the conclusion that there are significant constitutional concerns if we proceed as proposed by the current federal Government and pass Bill S-4 pursuant to the amending powers set out in section 44 of the *Constitution Act, 1982*. Experts in Canadian constitutional law have cautioned that this is not a matter for unilateral federal amendment, but rather is one that requires the consent of the provinces. And indeed, several provincial governments have written to express their considered view that this is not a matter for unilateral federal action, but rather a constitutional amendment to which they must be party.

**As a legislative committee of the Senate, a revising body, we believe it is our duty within the Canadian parliamentary structure to amend bills brought before us to the best of our ability. In that spirit, we have amended Bill S-4 in our best effort to correct those elements that we believe would render it clearly unconstitutional. However, we know that serious concerns remain whether the Bill, even as amended, falls within the legislative authority of Parliament.** Furthermore, in amending the particular provisions of the Bill, we were conscious that we were making alterations which arguably "would affect the fundamental features or essential characteristics" given to the Senate at Confederation. The Supreme Court of Canada was very clear in its 1979 decision:

"At some point, a reduction of the term of office might impair the functioning of the Senate in providing what Sir John A. Macdonald described as "the sober second thought in legislation".<sup>72</sup>

We have exercised our best efforts to provide a term of office that will not impair the functioning of the Senate – however, we recognize, as did the Government of then-Prime Minister Trudeau, that this is not a matter for any Government or any Parliament to decide: this is a matter of the Constitution of Canada, and should be referred for consideration to the Supreme Court of Canada. In 1979, the Supreme Court invited the Government to return and tell the Court what change of tenure is proposed. We believe the Court got it right, and that is the proper procedure to be followed.

---

<sup>71</sup> *Upper House Reference*, p. 67.

<sup>72</sup> *Id.*, at p. 76.

Constitutional law professor Errol Mendes testified that if Bill S-4 were passed, with fixed-term senators then appointed, and legislation subsequently passed by Parliament and these new senators, **“there would be constitutional chaos”** if Bill S-4 were then found to be unconstitutional.<sup>73</sup> The Government’s lawyer, Warren J. Newman, subsequently wrote to your Committee, seeking to distinguish the Supreme Court jurisprudence upon which Professor Mendes relied. The irrefutable fact, however, is that no one can say with certainty what the Court would hold the consequences to be. “Constitutional chaos” remains a serious concern.

The stakes are high. This is not a situation where we can accede to the Government’s wish for speedy Senate reform, and wait to find out later whether the Government was right, or whether in fact the many constitutional experts who expressed concern about the constitutionality of this bill were right.

We therefore urge the Government to take the time necessary to do it right as it moves to change the constitutional arrangement negotiated at the time of Confederation. We ask the Government to refer Bill S-4 as we have amended it to the Supreme Court of Canada. This is what many of the witnesses who appeared before us recommended; this is what we have concluded is the prudent thing to do.

We appreciate that the Prime Minister and his Government are anxious to move quickly on Senate reform. But we believe, and we trust that the Prime Minister would agree, that the Constitution is more important. There is no real, objective urgency that demands passing this Bill quickly. Conversely, the stakes if we get it wrong are significant indeed – as Professor Mendes characterized the potential consequences, “constitutional chaos.”

Several supporters of Bill S-4 have said that they accept the bill’s reforms to the Senate at least in part in the hope that the reforms introduced by the Bill would so destabilize the status quo that further, comprehensive reform of the Chamber would become obviously necessary. Roger Gibbins has written that he supports the Bill as a means of “destabilizing the status quo to the point where Canadians say, ‘This is a mess, and we’ve got to sort it out.’”<sup>74</sup>

Professor Gerard Horgan told us:

“The advantage of what is being done with the incremental reform, as I see it, is that it is introducing instability into the system. Right now we have what most people would think of as a stable suboptimal system. By introducing these incremental reforms, it will perhaps cause instability and drive the process forward.”<sup>75</sup>

<sup>73</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 29, 2007, 24:65.

<sup>74</sup> Testimony of Roger Gibbins in the *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 21, 2007, Issue No. 23:58; see also Mr. Gibbins’ testimony in the *Proceedings of the Special Senate Committee on Senate Reform*, September 19, 2006, 3:7.

<sup>75</sup> *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, March 22, 2007, Issue No. 23:108.



Your Committee believes that changes to any country's constitution should be guided by a desire to ameliorate existing tension and not to exacerbate them, and this is how we have approached our work on the examination of Bill S-4.

We are convinced that the only way to ensure that the approach that the Government has taken on Senate reform is indeed constitutional is for the Government to refer Bill S-4 as we have amended it to the Supreme Court of Canada on a constitutional reference.

We also note the strong concerns expressed by a number of provincial governments and constitutional experts concerning the constitutionality of Bill C-43, and the "inextricable linking" (in the words of the Government of Ontario) between that Bill and Bill S-4. We believe that the constitutional reference should therefore include Bill C-43 along with Bill S-4, as we have amended it.

# CONTENTS

Tuesday, June 12, 2007

PAGE

PAGE

<b>The Late Trooper Darryl Caswell</b> Silent Tribute.	
The Hon. the Speaker.	2585
<b>Visitors in the Gallery</b>	
The Hon. the Speaker.	2585

## SENATORS' STATEMENTS

<b>The Right Honourable John George Diefenbaker</b> Fiftieth Anniversary of Election to Govern.	
Hon. Marjory LeBreton	2585
<b>Canada's Participation in Afghanistan</b>	
Hon. Consiglio Di Nino	2586
<b>The Honourable Daniel Hays, P.C.</b> Tributes.	
Hon. Jean Lapointe	2586
Hon. Marcel Prud'homme.	2586
<b>The Right Honourable John George Diefenbaker</b> Fiftieth Anniversary of Election to Govern.	
Hon. Lowell Murray	2587

## ROUTINE PROCEEDINGS

<b>Public Sector Integrity Commissioner</b> Certificate of Nomination of Ms. Christiane Ouimet Tabled.	
Hon. Gerald J. Comeau	2587
<b>Auditor General</b> Minister of Canadian Heritage—June 2007 Report Tabled.	2588
<b>Study on Veterans' Services and Benefits, Commemorative Activities and Charter</b> Interim Report of National Security and Defence Committee Tabled.	
Hon. Colin Kenny	2588
<b>Constitution Act, 1867 (Bill S-4)</b> Bill to Amend—Report of Committee.	
Hon. Donald H. Oliver	2588
<b>Public Sector Integrity Commissioner</b> Notice of Motion to Approve Nomination of Ms. Christiane Ouimet.	
Hon. Gerald J. Comeau	2588
<b>Appropriation Bill No. 2, 2007-08 (Bill C-60)</b> First Reading.	2588
<b>Study on Present State and Future of Agriculture and Forestry</b> and Forestry Committee.	
Hon. Joyce Fairbairn	2589

## QUESTION PERIOD

<b>Finance</b> Atlantic Accord—Offshore Oil and Gas Revenues.	
Hon. Jane Cordy	2589
Hon. Marjory LeBreton	2589

Equalization Payments to Provinces.	
Hon. Hugh Segal	2589
Hon. Marjory LeBreton	2589
Atlantic Accord—Offshore Oil and Gas Revenues— Economic Development Payments.	
Hon. James S. Cowan.	2590
Hon. Marjory LeBreton	2590
Atlantic Accord—Offshore Oil and Gas Revenues— Budget 2007—Support of Conservative Caucus.	
Hon. Wilfred P. Moore.	2590
Hon. Marjory LeBreton	2590

## Public Works and Government Services

Department of National Defence Non-competitive Contracts.	
Hon. Sharon Carstairs	2591
Hon. Michael Fortier	2591
Hon. Roméo Antonius Dallaire.	2592

## Indian Affairs and Northern Development

Kelowna Accord—Comments by Minister.	
Hon. Jim Munson	2592
Hon. Marjory LeBreton	2592

## Delayed Answer to Oral Question

Hon. Gerald J. Comeau	2593
-----------------------	------

## Veterans Affairs

Vimy Ridge Celebrations—French Translation on Commemorative Plaques.	
Question by Senator Dallaire.	
Hon. Gerald J. Comeau (Delayed Answer)	2593

## The Senate

Tribute to Departing Pages.	
The Hon. the Speaker.	2593

## ORDERS OF THE DAY

<b>Sales Tax Amendments Bill, 2006 (Bill C-40)</b> Third Reading—Debate Adjourned.	
Hon. Michael A. Meighen.	2593

## Canada Elections Act

<b>Public Service Employment Act (Bill C-31)</b> Bill to Amend—Motion in Amendment— Report of Committee Adopted.	
Hon. Lorna Milne	2594

## Study on User Fee Proposal for International Youth Program

Report of Foreign Affairs and International Trade Committee Adopted.	
Hon. Consiglio Di Nino	2595

## International Boundary Waters Treaty Act (Bill S-225)

Bill to Amend—Second Reading—Debate Adjourned.	
Hon. Pat Carney	2595
Hon. Jeremiah S. Grafstein	2598

## Income Tax Act (Bill C-294)

Bill to Amend—Third Reading.	
Hon. David Tkachuk	2599

## Immigration and Refugee Protection Act (Bill C-280)

Bill to Amend—Second Reading—Debate Adjourned.	
Hon. Yoine Goldstein.	2599



PAGE

**Study on Recent Reports and Action Plan Concerning Drinking Water in First Nations' Communities**

Report of Aboriginal Peoples Committee Adopted.	
Hon. Jeremiah S. Grafstein . . . . .	2600
Hon. Roméo Antonius Dallaire . . . . .	2601
Hon. Gerry St. Germain . . . . .	2602
Hon. Wilbert J. Keon . . . . .	2603
Hon. Gerald J. Comeau . . . . .	2603

**Study on National Security Policy**

Amended Report of National Security and Defence Committee— Debate Continued.	
Hon. Wilfred P. Moore . . . . .	2604

**Question of Privilege**

Motion to Refer to Standing Committee on Rules, Procedures and the Rights of Parliament—Debate Continued.	
Hon. Gerald J. Comeau . . . . .	2604

**The Senate**

Motion to Urge Continued Dialogue Between People's Republic of China and the Dalai Lama—Motion in Amendment— Debate Continued.	
Hon. Consiglio Di Nino . . . . .	2606
Motion in Subamendment.	
Hon. Consiglio Di Nino . . . . .	2607
Hon. Anne C. Cools . . . . .	2608
Hon. Claudette Tardif . . . . .	2608

PAGE

**The Senate**

Motion Urging Governor General to Fill Vacancies in Senate— Debate Continued.	
Hon. Lowell Murray . . . . .	2608
Hon. Leonard J. Gustafson . . . . .	2610
Hon. Norman K. Atkins . . . . .	2610
Hon. Anne C. Cools . . . . .	2610

**Study on Issues Related to National and International**

**Human Rights Obligations**

Motion to Request Government Response on Report of Human Rights Committee—Order Stands.	
Hon. Eymard G. Corbin . . . . .	2610

**Post-secondary Education**

Inquiry—Debate Suspended.	
Hon. Lillian Eva Dyck . . . . .	2611

**Business of the Senate**

The Hon. the Speaker . . . . .	2611
--------------------------------	------

**Kyoto Protocol Implementation Bill (Bill C-288)**

Third Reading—Motions in Amendment and Subamendment— Debate Continued.	
	2611

**Business of the Senate**

Hon. Gerald J. Comeau . . . . .	2613
---------------------------------	------

Appendix . . . . .	2614
--------------------	------







*If undelivered, return COVER ONLY to:*  
Public Works and Government Services Canada  
Publishing and Depository Services  
Ottawa, Ontario K1A 0S5





CANADA

# Debates of the Senate

---

1st SESSION

•

39th PARLIAMENT

•

VOLUME 143

•

NUMBER 107

---

OFFICIAL REPORT  
(HANSARD)

Wednesday, June 13, 2007

THE HONOURABLE NOËL A. KINSELLA  
SPEAKER





## CONTENTS

(Daily index of proceedings appears at back of this issue).

*Debates and Publications:* Chambers Building, Room 943, Tel. 996-0193

---

Published by the Senate  
Available from PWGSC – Publishing and Depository Services, Ottawa, Ontario K1A 0S5.  
Also available on the Internet: <http://www.parl.gc.ca>

## THE SENATE

Wednesday, June 13, 2007

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

### SENATORS' STATEMENTS

#### TRIBUTES

THE HONOURABLE DANIEL HAYS, P.C.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I do not wish to take the position of the Honourable Leader of the Government in the Senate at this point, but today we will be saying "au revoir" to our colleague and my good friend, Senator Hays. I have discussed this with the other side and because of Senator Hays' longstanding tenure with the Senate, the fact that he is highly respected on all sides of this house and a former leader and Speaker, I would seek unanimous consent to extend the time for tributes to one hour, plus, obviously, the time for Senator Hays to respond. I know this request is somewhat irregular, but Senator Hays is not a regular guy.

**The Hon. the Speaker:** Honourable senators, is it agreed to extend the period for tributes to one hour?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Honourable senators, with the unanimous consent of the house, please continue with tributes to the Honourable Senator Hays.

• (1335)

[Translation]

**Hon. Céline Hervieux-Payette (Leader of the Opposition):** Honourable senators, it is a distinct privilege for me to pay tribute to a friend and distinguished colleague, the Honourable Dan Hays, who will be retiring from the Senate in the next few weeks, some seven years earlier than required under the Constitution.

[English]

Described as a rising star and key Liberal player by *The Globe and Mail* shortly after his appointment to the Senate, as well as a man unequalled in his understanding of modern Alberta, Senator Hays more than lived up to that stellar billing.

Born and raised in Calgary, Senator Hays is the distinguished son of a great Liberal family with deep roots in the West, a family that has made a lasting contribution to our Parliament, to Alberta and to Canada. His father, Harry, was Minister of Agriculture in the first Pearson cabinet, before being appointed to this chamber where, among other things, he co-chaired the Special Joint Committee on the Constitution.

Appointed to the Senate by Prime Minister Pierre Trudeau in 1984, Dan Hays had some big shoes to fill, and fill them he did

most brilliantly, earning the friendship and high regard of his colleagues through his charm — I concur with that — intelligence and impeccable civility. As a member and then Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources and the Standing Senate Committee on Agriculture and Forestry, Senator Hays was described by the *Financial Post* as an "energy and agricultural thinker of the first order."

[Translation]

His talents were not limited to these areas, however. This is amply and eloquently evidenced by the numerous milestones in his career. Successively Deputy Leader of the Government, Speaker of Senate and Leader of the Opposition, Dan Hays has discharged his onerous responsibilities with the talent and wisdom of a great parliamentarian well-versed in the traditions and procedures of this House and with the dignity and aplomb of a seasoned diplomat.

President of the Liberal Party from 1994 to 1999, he devoted his many talents to organizing, financing and policy development, making an outstanding contribution to the success of our political party.

Having co-chaired the campaign committee with him during the 1990s, I was witness to his passion for politics, his efficiency and his leadership, as we travelled across Canada from coast to coast to coast. For almost a quarter of a century, Senator Hays has served this institution with talent, dedication and distinction.

A modern-day Liberal who believes in reform and has a great social conscience, he has always believed that the government must act for the greatest good of all citizens. Independent-minded, he has successfully given a strong and effective voice to the interests and aspirations of Alberta.

A lawyer, farmer — he taught me my first class in chicken farming — a parliamentarian and a diplomat, Dan Hays has earned the respect and admiration of everyone who met him.

On behalf of his colleagues, I wish him an active and productive retirement and hope that he and his wife Kathy will be blessed with good health and happiness, enjoying a pleasant life in their little castle in Calgary. Godspeed, dear colleague.

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, today we say goodbye to our colleague and friend Senator Dan Hays after almost a quarter of a century of public service in the Senate of Canada.

Since 1984, Senator Hays has proudly represented Calgary, Alberta, in this place. In so doing, he followed in the footsteps of his late father, Senator Harry Hays, with whom he also shared a



deep interest and involvement in Western issues, in particular the cattle industry. I am one of those who has been around here long enough to remember the honourable senator's father.

As all honourable senators are aware, in 2001, Senator Hays was appointed Speaker of the Senate by then Prime Minister Jean Chrétien. During his time in the Speaker's chair, Senator Hays was a courteous voice of reason who approached his position with a fair and open mind. He always showed great respect toward his fellow senators and the rules which govern this place in which we are fortunate enough to work.

In the many diplomatic duties he undertook as Speaker, he was a fine representative of the Parliament of Canada throughout our country and around the world.

• (1340)

For a period of about one year, I had the opportunity to work with Senator Hays in his capacity as Leader of the Opposition. Although we did not share the same viewpoint on everything, we had a pleasant and fruitful working relationship. I have great respect for Senator Hays' ideas and opinions, though I might not share all of them, and I sincerely hope that he feels the same way in return. We are both partisans, and we understand and recognize the importance of political loyalty.

In addition to his roles as Speaker, Leader of the Opposition and Deputy Leader of the Government, Senator Hays has been a member of numerous Senate committees and has chaired several, including the most recent Special Senate Committee on Senate Reform. In addition to his work in the Senate, Senator Hays also served as President of the Liberal Party of Canada from 1994 to 1998. Senator Poulin undoubtedly has received lots of advice from him.

In recognition of Senator Hays' many years of service to our country, he was appointed earlier this year as a Member of the Privy Council by Prime Minister Stephen Harper. The Prime Minister said at the time that Senator Hays has served his province and his country with dedication, and I am sure all honourable senators would agree with that statement.

Honourable senators, even though Senator Hays is taking his leave of this place today, he will not soon be forgotten. In fact, just over one year ago, Senator Hays' official portrait was hung in the Speaker's Hallway outside the chamber and in that way, he will continue to be a daily presence at the Senate of Canada for years to come. I well remember that wonderful event and meeting all of his Conservative relatives.

On behalf of all Conservative senators, I would like to extend our best wishes to Senator Hays, his wife Kathy and their family for a very happy retirement, although I doubt very much that it will be retirement.

**Hon. Noël A. Kinsella:** Honourable senators, I rise in my place in the chamber to express words of tribute to a fine friend, careful counsel, patient parliamentarian and superb Speaker of the Senate of Canada. Senator Dan Hays has served this honourable house in numerous roles. His service in these different capacities has been consistently marked by equanimity, composure, steadiness and dignity.

It was during the year of the patriation of the Constitution, when I had the privilege of appearing as a witness before the Joint Committee of the Senate and the House of Commons on the Constitution, co-chaired by Senator Serge Joyal and Senator Harry Hays. I am confident that Dan's father looks down on us today with approval as we salute with tributes the journey that his son has travelled whilst continuing the Hays family tradition of public service, including honourable service rendered in this place.

I can attest with appreciation gained through the years of working with Senator Dan Hays in a number of contexts, whether as the respective deputy leaders in the house, on committees or as my predecessor as the Speaker, that, in all instances, the hallmark of this distinguished son of Alberta was honour, respect and courtesy.

Honourable senators, Senator Dan Hays served as our Speaker, as has been mentioned, from 2001 to 2006, and that service was rendered with great distinction. He has always been affable, obliging and dignified. However, I must now confess to my friend that, based on knowledge gained in my current role and experience, I would not have raised all those points of order in the past had I known about the extra work and research it causes the Speaker.

Given that one of the mysteries of the Senate, a mystery that only reveals its secrets if and when one becomes Speaker, is the peculiar nature of how our clerks at the table serve the Speaker when he or she is called upon to rule on a contentious point of order or question of privilege, I would like to give voice to the table officers who have many recollections of their work with Senator Hays as he prepared his rulings while Speaker.

• (1345)

For any hand that I had in placing those procedural queries before Speaker Hays, I can only now appeal to his good nature and ask for absolution. To you, Dan, we wish you all Godspeed.

[Translation]

**Hon. Joan Fraser:** Honourable senators, Dan Hays is leaving us too soon, much too soon in my opinion. The Senate would have really liked to have taken advantage of his experience, wisdom and dedication for much longer. We can and we must accept his decision, his choice. But we can still regret it, and I do.

[English]

I have known Senator Hays for much less time than almost everyone in this chamber. He was already a very senior senator when I arrived in this place. He had already been chairman of important committees; he was a past party president and a powerful figure in the party and in caucus; and, as has been observed, he was the son of another very distinguished senator indeed. If there is a hereditary aristocracy in this place, Senator Hays, like Senator Carstairs, is a member of it, and deservedly so.

Hence, I have just sort of observed from afar. He was much too eminent for me to get to know him at all, until at one point, while he was Deputy Leader of the Government, I had the privilege of being caucus chairman, and so I had to deal with him more directly. That was when I started to understand something about Senator Hays.

Two of the qualities that I realized right away have remained among the dominant impressions. This is a man of absolutely infinite patience. Truly, I cannot remember ever dealing with anyone who could display quite as much patience, particularly with learners on the job, as Senator Hays did. Also, of course, there is his warmth. The current Speaker used the word “affable,” and it is a good word.

Senator Hays possesses natural warmth, not a gushy type of warmth. In fact, it takes a long time to learn very much about Dan Hays. It was only last year, for example, that I heard about Hays Converter Cattle, which are a large part of his life.

He is also distinguished for his profound commitment to the Senate, to the integrity of the Senate, to Alberta and to the Liberal Party, perhaps in that order, and perhaps on occasion not in that order.

Senator Hays then became Speaker of the Senate, and I had the privilege of sitting in one of those chairs close to him, where I could watch him, watch the Speaker in that wonderful pose captured in the portrait that he had the wisdom to have done for us, capturing him as he really was, leaning over the arms of the chair and displaying the infinite patience and acute judgment that a Speaker of the Senate must always exercise.

Finally, when he was Leader of the Opposition in this place, he paid me a great compliment — which may not say much about his judgment — of naming me as his deputy leader, and all of the same qualities were in evidence all over again.

I will always stand in awe of the degree to which Senator Hays was willing to give me enough rope to hang myself and then did not reproach me when I did hang myself. Just every once in a while he would be sitting there and out of the depths of that vast experience would come a quiet, “Do this, now,” and he was always right. I did not have to ask why or say, “What are you trying to do?” I would just do it and he would be right. However, most of the time, it was just patience, understanding and encouragement of a very high order. I must thank you, Senator Hays, forever for that.

We all know how Senator Hays used that year to encourage us to think constructively about the modernization of this institution that he loves, as do we all. The paper he has delivered, first to the Rules Committee and then to us all, offers wonderful ground for reflection in the future. He leaves us a large legacy.

• (1350)

One cannot say goodbye to Senator Hays without immediately thinking of his wife Kathy, a woman of incredible warmth, kindness, generosity, good humour, friendliness — all those lovely qualities that at first masked the fact that she is also a woman of absolutely awesome efficiency, who can get more done in less time than most of us can ever dream of. I do not have the privilege of knowing the rest of his family, but with those two examples I am sure they are all just as wonderful. I know they will be very glad to claim more of him and of his time now, however much we may resent that fact.

Good luck.

[Translation]

**Hon. Rose-Marie Losier-Cool:** Honourable colleagues, I do not like to see a friend leave, so it makes me sad to say goodbye for now, but not forever, to Senator Hays.

I would like to sincerely thank the man who trusted in me by recommending me as Speaker *pro tempore* of the Senate in 1999, and who was a stimulating work partner for three years.

I would also like to sincerely thank this francophile who always respected and promoted my language, as much in caucus meetings as in the Speaker's chair.

Senator Hays, beyond the personal affection I have for you, I have always thought of you as a tactful, available, cooperative, wise and knowledgeable mentor.

[English]

As the famous English quotation says: “If you want honey, don't kick the beehive.” I think Senator Hays really got the honey; that is for sure.

[Translation]

I will always envy his great diplomatic arsenal — in caucus, in the chamber or abroad.

I am specifically thinking about the delegation he led to Prague and Barcelona a few years ago, in which Senator Comeau and I participated. Throughout the trip I remember being impressed by the statesmanlike qualities constantly exhibited by Senator Hays, one of the greatest Speakers of the Senate this institution has ever known.

[English]

I will miss your kindness, Senator Hays, as well as your intellect and wisdom. However, I am glad that Kathy is getting you back all for herself. I know the two of you will have many long years of happiness and good health.

[Translation]

Thank you again, from the bottom of my heart, and until we meet again.

[English]

**Hon. Lowell Murray:** Honourable senators, I join briefly in these well-deserved tributes only to underline the importance I would attach in any assessment of Senator Hays' time here to his international activity.

I had the pleasure of serving with him in the Canada-Japan Parliamentary Group, traveling with him in Japan under his chairmanship of that group, and conferring with our Japanese parliamentary partners and with others drawn from the political, economic and cultural leadership of Japan. He was later honoured by that country, and with good reason, because his contribution to our bilateral relations is significant.



As Speaker, he included me in Senate delegations to Australia and China. In those countries, too, he very ably promoted Canada's interests and values. His colleagues of whatever political party, or of none, will attest to his non-partisan approach when abroad and to his inclusiveness. He always tried to draw attention to his colleagues and to bring out the best in us. This is sometimes a difficult challenge, but he had the good fortune to have a most thoughtful and considerate spouse and companion at his side in the person of Kathy Hays.

[Translation]

With great admiration and respect, I recall how our former Speaker and his wife made parliamentary diplomacy a priceless tool for protecting and promoting Canadian interests and values internationally. As colleagues and fellow Canadians, we are very grateful to them.

[English]

**Hon. Sharon Carstairs:** Honourable senators, I have known Senator Dan Hays for 46 years.

**An Hon. Senator:** Wow!

• (1355)

**Senator Carstairs:** In 1961, Dan was the Chair of the National Federation of Canadian University Students at the University of Alberta, and I was Chair of the National Federation of Canadian University Students at Dalhousie. As a result, we ended up at two conferences together: The first at McMaster University, on the subject of disarmament; and the second at Queen's University, which was the annual meeting of what we called NFCUS in those days.

In 1965, I moved to Calgary and there had been an election called. I lived in the riding of Calgary-Centre. The candidate in Calgary-Centre for the Liberal Party of Canada was none other than the then agriculture minister, the Honourable Harry Hays. As a good Liberal, of course, I immediately went to work on the campaign. Unfortunately, we were not very successful, but we went to work on the campaign.

Several months later, I met my husband John and discovered that he and Dan had a little cabal focusing around none other than Jim Coutts. John had supported Jim and had been his chair to become the President of the Young Liberals of Canada. Dan, on the other hand, had been the chair of Jim's campaign to become the candidate and, hopefully, the member of Parliament in Macleod.

One was successful; the other, unfortunately, was not — but we kept our friendship together. We both lived in the community of Mount Royal, our daughters went to Earl Grey School together and we both voted consistently without managing to win our ballots in Calgary-Elbow, but last night we finally won it.

**Some Hon. Senators:** Hear, hear!

**Senator Carstairs:** John and I moved to Manitoba in 1977, but we kept in touch with Dan and watched his ascendancy to become the President of the Liberal Party of Canada. I was then fortunate enough to join Senator Hays here in 1994, 10 years after Dan had been appointed.

[ Senator Murray ]

I became the Leader of the Government in the Senate at the same time that Dan became the Speaker of this chamber. He, of course, had the higher place of honour. We were delighted to learn of his marriage to Kathy.

Senator Hays has devoted himself to the enhancement of this chamber. More importantly, in my view, he has prided himself on his representation of issues of great importance to the province of Alberta and to the citizens of Calgary. Above all, he has been a citizen of this country, and John and I wish he and Kathy, his girls and their grandchildren the very best.

**Hon. W. David Angus:** Honourable senators, as our friend the Honourable Daniel Hays leaves the Senate it is, in my respectful view, a significant loss for all of us and for the institution we know and love.

I did not know Dan Hays when I was summoned to this place 14 years ago today, but over the intervening years, I came to know him as a thoroughly decent man and colleague, a true gentleman of high integrity and a trusted friend. In my experience, Dan Hays has always demonstrated a keen sense of measure, recognizing that often subtle line of demarcation between the cut and thrust of partisan politics, on the one hand, and his senatorial duties of public policy making, sober second attention to legislation and regional representation, on the other.

I very much enjoyed working with Senator Hays last summer and autumn on the Special Senate Committee on Senate Reform. During that exercise, I realized just how much Dan loves this place and how profoundly he understands its background, role and rationale within the Canadian mosaic.

Yes, Senator Hays believes there exists urgent need for substantial reforms to improve the workings and effectiveness of the Senate. He has an acute sense that our Senate is not in perfect health, but I do not believe he qualifies as an abolitionist in any sense of the word. We owe Dan a real debt of gratitude for the studious way he has approached the issue of Senate reform, as witnessed most recently by the excellent paper he produced voluntarily and provided copies to us all.

Not too long after I was sworn in here, Dan Hays became President of the Liberal Party of Canada, a job he took very seriously in all its aspects, including the sometimes awkward and urgent need for financing of political parties. I had just completed a 10-year stint as chairman of the PC Canada Fund. Dan invited me to lunch in the Parliamentary Restaurant to, as he put it at the time, "compare notes discreetly on matters of important mutual interest." I enjoyed this initial encounter with Dan very much, and we have been good friends ever since.

• (1400)

As Speaker of the Senate, I felt that Senator Hays was always fair and balanced, and with his calm demeanour and sound judgment he did his best to maintain decorum in this place, notwithstanding the partisan approach and other shenanigans some of us stoop to from time to time.

To me, Dan Hays is in many ways a kindred spirit.

Dan, I will miss you a lot. I salute you, and I wish you and Kathy the very best in your next phase of admirable service to the people of Calgary, the people of all of Alberta, and the people of Canada. Whatever you choose to do, Dan, I know you will do it diligently and very well. I wish you Godspeed.

**Hon. Joyce Fairbairn:** Honourable senators, it is always sad to say farewell to a Senate colleague, but never more so than when friendship with that colleague goes back to the rollicking freshman days at the University of Alberta in 1957, through many decades of vigorous membership in the Liberal Party of Canada and the Liberal Party of Alberta, and to marching together into the Senate of Canada on the same day 23 years ago. It is truly hard for me to imagine life in this chamber without Dan Hays.

Dan was meant to be in the Senate, whereas I sort of came in as an afterthought. Strongly supported by his family, his contribution to this place has been outstanding, as we have heard in previous tributes.

Dan grew up with his wonderful parents, Harry and Muriel, in Calgary, and at the ranch at Pekisko Creek in the foothills of the Rocky Mountains, one of the most beautiful places I have ever seen or ridden through on horseback.

While his father produced an astounding new breed of cattle, Muriel told me that, as a very little fellow, Dan did a terrific job of rounding up the sheep, and she was very proud of him. Today Dan is still the proud owner of a herd of Hays Converter cattle.

The other side of family life was a very vigorous commitment by Harry Hays as a beloved mayor of the city of Calgary, a member of the House of Commons, the Minister of Agriculture in the cabinet of Prime Minister Lester B. Pearson and, finally, a senator in this chamber.

Clearly, Dan had enormous knowledge of, enthusiasm for and commitment to public life when retiring Prime Minister Pierre Trudeau sent him here to the Senate on June 29, 1984. The rest is remarkable history. His was a vigorous voice as Chair of the Standing Senate Committee on Agriculture and Forestry and the Standing Senate Committee on Energy, the Environment and Natural Resources; the Deputy Leader of the Government in this chamber in 1999; the Speaker of the Senate in 2001; and the Leader of the Opposition in 2006.

There is not a heck of a lot more you could be, Dan, and it has been wonderful every step of the way. Your background in English from the University of Alberta and your law degree from the University of Toronto, which guided you to the firm of Macleod Dixon in Calgary, have led you into thoughtful excellence in this chamber. Indeed, your most recent commitment in debate for future Senate reform is a final gift to those of us here who believe that the time has come for some type of Senate change. You will always be a part of that change.

• (1405)

Throughout it all, Dan has been supported by his daughters Carol, Janet and Sarah, who are up in the gallery today, and with cheerful affection his grandchildren Theodora and Alexandra, who are up in the gallery today; and then, of course, his

wonderful wife Kathy. For many years Kathy has served with enormous ability, friendship, good humour — and she is a heck of a dancer — on Parliament Hill for both Dan and myself and many others. Now the two of them will happily head off for Calgary and opportunities in other parts of the world where Senator Dan has traveled through Senate leadership and parliamentary associations.

Perhaps the next part of your life, Dan, may turn out to be the best part. You will be missed, my friend, but you will forever leave a legacy of achievement in the Senate of Canada.

We have the Calgary Stampede to get going, and I will be there as usual with you, in stetson and boots. I know that I can still be cheerful when I think of what you will be doing in the future, but most of all I know our paths will cross often in our beautiful province of Alberta.

[Translation]

**Hon. Pierre Claude Nolin:** Honourable senators, when I found out a few weeks ago that Senator Hays had decided to leave us, I thought it was too early because he is too young to retire. I am sure that Senator Hays has good reasons for having made this decision, and I respect those reasons.

Our institution needs people like the honourable Day Hays, who rise above partisanship to realize the dream articulated by the Fathers of Confederation when they imagined and created our institution.

As a Quebecer, and, above all, as a French Canadian, I have seen that you respect my distinctness, and that is commendable. As an Albertan, you have tried to understand what we French Canadians represent to Canada, and you have succeeded. You have tried to look beyond cultural and linguistic barriers to see our hopes and the hopes that you and I share of making our country, in the words of a former Prime Minister, the best country in the world.

Senator Hays, it is with much sadness that I accept your decision. I wish you the best of luck and much happiness with your charming wife. I once had the honour of accompanying you on a trip. You are an experienced and very interesting traveller. I wish you the best for the future. The Senate will miss you.

[English]

**Hon. Jeremiah S. Grafstein:** Honourable senators, today we hail Dan Hays and bid him farewell as he takes his leave from the Senate. Dan was appointed to the Senate six months after me and has served almost a quarter of a century in this chamber. We share several common bonds. We were both appointed by Mr. Trudeau; we both graduated from the greatest law school in Canada, the University of Toronto Law School; we are both deeply interested in constitutional matters; and, finally, we have had and continue to have a lavish relationship with the Liberal Party of Canada.

I will not retrace Dan's contributions to the Liberal Party or to the Senate or to his province. These have already been delineated, and I will not make them more fulsome than they already are.



• (1410)

Let me briefly touch on some personal characteristics that, from my perspective, made Dan Hays a model senator. He represented his province with coherence, civility and commitment. He made wise and thoughtful contributions to the business of the Senate. Dan was never swept up in the short-range politics of the moment. Once, when Dan was asked to deliver a piece of unhappy news to me about my role in the Senate, a role I had sought for years, he did so candidly, concisely, carefully and cogently.

We will miss Dan's careful deliberation and contribution to the Senate in the grand tradition of a great friend of ours, his late father Harry Hays, who made an outstanding contribution not only to this chamber but the other chamber, to the Liberal Party and of course to his province.

To you, Dan, to your wife Kathy and to your entire family, we can only wish you energy, health, happiness and a long life. You are starting a new career. I am confident that you will bring the same competence and energy to bear as you have to the Senate.

Let me end with these two Latin words: *carpe diem*. Pluck the flower of today; smell the roses. The best is certainly yet to come.

**Hon. Consiglio Di Nino:** I am pleased to rise and add a brief adieu, bonne chance and Godspeed to a much admired and respected colleague.

In all of the roles he has played in this chamber, Dan Hays has always been fair and inclusive, and his firmness always gentle. His strong partisanship was never aggressive or harsh. He has freely given of his friendship unconditionally. Honourable senators, maybe not all of us, but Senator Hays has certainly earned the title "The Honourable."

To you, Senator Hays, to your wife Kathy and your family, I extend my best wishes for fulfillment and happiness. We shall miss your calm and balanced leadership.

[Translation]

**Hon. Marie-P. Poulin:** Honourable senators, the retirement of our esteemed colleague, the Honourable Dan Hays, gives rise to two emotions: sadness because of his departure, but also sincere happiness because he is beginning a new chapter in his life at a time of his own choosing.

The Senate will miss such a dedicated and distinguished Canadian, but the qualities that won him our respect and love will remain with us. As a senator, he represented Alberta with generosity and astuteness. Dan frequently reminded us of the key role farmers play in our country.

He arrived as a unilingual Albertan but is leaving as a fluently bilingual Albertan. As chair of the Canada-Japan Inter-Parliamentary Group, he won recognition as an outstanding parliamentary diplomat. His skills as a facilitator and a unifying influence came to the fore many times during his tenure as president of the Liberal Party of Canada.

When he became Speaker of the Senate, we all appreciated his fairness, benevolence and caring, and as Leader of the Opposition, his courage and love of repartee came to the fore.

[ Senator Grafstein ]

[English]

Honourable senators, in short, Dan Hays is a gentleman in the fullest sense of the word.

Senator Hays, you will be missed, but we know that now you and Kathy, your very lovely wife, will enjoy that extra free time with your fine family and many friends around the world.

• (1415)

**Hon. Gerry St. Germain:** Honourable senators, I rise to pay tribute to a man of great quality from Western Canada. Senator Dan Hays did all that was humanly possible to rise above petty partisanship in executing his duties in this place, even offering to take me on some of his Speaker's delegations across the world.

As Leader of the Opposition in the Senate, he executed his duties in a manner that was in service to his party, but yet never discounted the important role of others in this place.

As Speaker of the Senate, he carried out his functions in a manner that left most of us feeling that we were being treated fairly, in spite of the rancour that sometimes erupts in this place. Often those of us who served in the other place brought a bit more of a confrontational rancour, but we did it in the spirit of livening up the debate in this place. I thank you, Dan, for the many supplementary questions that you granted me when you were Speaker, much to the chagrin of some of my own people.

I want to be as succinct as possible in this homage to a fellow Western Canadian. However, I would be remiss if I did not thank Dan and Kathy for the great hospitality to which we were treated when they hosted events in Calgary. They included all of us, regardless of party, and did it with a style of inclusion equal to none. Many in the political arena could take a lesson from Senator Hays and wife Kathy in recognizing that each and every one of us in this place has something to offer in debate and to the building of a better Canada.

Senator Dan, former Senator Lawson often made reference to the great contributions that your family and you have made to agriculture, and I would be remiss if I did not say on behalf of Ed, who thought highly of your family, bon voyage.

Senator Hays, when you announced your intention to resign, I said in this place in a loud voice: "This is a great loss." I meant it at that time, and I still do.

I wish you, Kathy and your family good health and may you continue in your productive, happy and rewarding life in Calgary or wherever you may choose to live.

[Translation]

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, I want to add a few words to what my honourable colleagues have already said about our dear colleague and friend, the Honourable Dan Hays. It has been an enormous pleasure for me to represent Alberta in this chamber with a colleague who is so distinguished, so personable, so knowledgeable and so proud to be an Albertan. It is with sadness that I join you, dear colleagues, in paying tribute to him for the huge contribution he has made to this place.

[English]

Indeed, it has truly been an honour for me to serve as one of his colleagues in this chamber and as a fellow Albertan. Senator Hays has truly been an exemplary and wonderful colleague whose great contribution to this chamber and to the national political scene will be sorely missed.

When I was called to the Senate in 2005, Senator Hays was the Speaker of this chamber. As both the Speaker and a fellow Albertan, he was one of the first to welcome me to this chamber and to congratulate me. I must say that his kindness and thoughtfulness made me feel very welcome, and I want to thank him for that.

I also had the opportunity to see firsthand, while travelling with him as part of his Speaker's delegation to Ireland and Romania, how well he represented the Senate of Canada and the great respect with which he was received wherever he went.

[Translation]

Senator Hays has been a proud and distinguished representative not only of the Senate, but of our country abroad. With his diplomacy, kindness and people skills, he always put people at ease, and over the years, he developed an extensive knowledge of our Parliament and our country and made a tremendous contribution to Canada.

I also admire the fact that, in the Senate, in committee and outside the Senate, he always made a point of not only using both official languages, but encouraging those around him to do the same.

Senator Hays nearly always greeted me in French with, "Bonjour, Claudette, comment ça va?"

• (1420)

[English]

I also wish to thank his lovely wife Kathy for her warmth, thoughtfulness and her undeniable contribution to the Senate as well.

Your presence, Kathy, your vitality and your support will be sorely missed on the Hill.

While I know that Senator Hays will continue to be active and to pursue his many interests, he will be dearly missed here in the Senate. Senator Hays has always contributed positively. He has been so thoughtful and has encouraged us to be thoughtful in our debates and reflections on how things unfold in this chamber. I thank him for that.

I wish you and Kathy all the best for the future. It has been a pleasure, indeed an honour, for me to have served in this chamber with you. I only wish it could have been so very much longer. I have so much yet to learn.

[Translation]

But this is just farewell, not goodbye.

[English]

**Hon. Elaine McCoy:** Honourable senators, it strikes me there are few people among us who are given to transcending the circumstances in which, by chance and certainly through no fault of our own, we find ourselves. Coming from Alberta and Calgary, senators must realize that I am speaking of being, first, a federal Liberal, second, a senator, and, third, associated with former Prime Minister Pierre Trudeau.

Nevertheless, we all in Calgary hold Dan Hays in great esteem because of his continuing efforts to represent Alberta and to be fair to one and all, as so many have seen and spoken of this afternoon.

Senator Hays, as I have said elsewhere, there is something about your understated wisdom and boyish charm that manages to bring us all into your sphere of influence in a way that encourages us to do our best, to get along with one another and to increase the excellence of our service, whether to our city, our province or our country.

You have been a wonderful role model. I appreciate your quiet guidance to me in the time I have been here and before. I wish you and Kathy bon voyage, as others have said. I am only sorry that I have not had an opportunity to serve with you longer, but I certainly hope to keep in constant touch with you and Kathy as the years go by. All the best and, as we Irish say, may the wind always be at your back.

**Hon. Dennis Dawson:** Honourable senators, thirty years ago this week, I was sworn in as a member of the other place. I had the honour to sit in caucus with Senator Hays' father, Harry Hays. Actually, I had to tell a page that I was 12 years old when I was elected.

I was fortunate enough to sit with him in caucus for about five years, including one in which he co-chaired, along with our colleague Senator Serge Joyal, the Special Joint Committee on the Constitution. Pierre Elliott Trudeau trusted him with his most cherished project, the Charter of Rights and the repatriation of the Constitution. Unfortunately, he did not live to see its success.

When I came back here 20 years later, our constitutional committee was still being chaired by a Hays and was still strongly influenced by the now Senator Joyal. At that time, Senator Hays' dad and Senator Joyal did not always agree or see eye to eye; neither do my colleagues now, but they both love, cherish and believe in the institution.

In 1984, son Dan followed in Harry Hays' footsteps and joined the Senate. I also had, at that time, the opportunity to sit with him for a short period in caucus.

[Translation]

Unfortunately, I had to wait 20 years before joining him in the Senate. However, I had the privilege of working with him within our political party, since Senator Hays served as President of the Liberal Party from 1994 to 1998.

As soon as Senator Hays took on the duties of president, he immediately undertook to learn French. He was not the first, nor would he be the last to do so, but unlike many of his predecessors and successors, he learned French brilliantly and I would like to congratulate him on this.



My time in the Senate with Senator Hays has been all too short, but exceptional nonetheless. I had the privilege of working with him on the Special Senate Committee on Senate Reform. Unfortunately, we were not able to accomplish everything we hoped within that committee.

• (1425)

The level of debate, guided by Senator Hays' master hand, caused many people's ideas on the subject to evolve, particularly here in the Senate.

Furthermore, his recent contribution to this issue will serve as an important tool in our future debates. I would like to congratulate him on his work as Speaker, as a leader and as a senator. Senator Hays, your father would be proud.

[English]

**Hon. Yoine Goldstein:** Honourable senators, I am jealous of almost all of you because most of you have known Dan Hays longer than I have. There are simply not enough superlatives in the English language to describe Dan. He is skilled, serene, warm and a devoted and competent servant of the Canadian people. Others have described the length and breadth of his service. I have come to know him first as the Speaker, then as the Leader of the Opposition and latterly and lastingly as a friend. I am proud to say that he and Kathy have become my friends and have become friends with Elaine. His courtesy, dignity, even-handedness and approachability made him a wonderful Speaker. His sense of collegiality and ability to both listen and to hear made him a beloved and respected leader, and his warmth and positive disposition have made him an especially close and cherished friend.

Dan is a gift to his family, to this institution that he has graced with his presence, and to the people of Canada. For a whole host of reasons everyone in this chamber and all of the staff whom he has befriended over the years will sorely miss him.

Good luck, Dan, Godspeed in all of your future endeavours. Your years of superb service will make your presence in this chamber a lasting legacy for all of us. Notwithstanding that, please come back often to visit.

**Hon. Catherine S. Callbeck:** Honourable senators, I want to add a few words to the tributes that have already been given to Senator Hays. As we have heard this afternoon, Senator Hays has held a number of positions during his 23 years in the Senate, most notably Speaker, Deputy Leader of the Government and Leader of the Opposition. He has served in all those roles and more with great skill and distinction.

I had the pleasure of travelling to Japan with Senator Hays in March 1999 as part of the Canada-Japan Friendship Group. It was obvious to me during this trip that he had a tremendous interest, and indeed passion, in furthering the ties between Canada and Japan. On that trip I also noted the respect and the admiration that our Japanese colleagues, government officials and friends had for the senator. In fact, not long after that trip, his many accomplishments were recognized when he was awarded the Grand Cordon of the Order of the Sacred Treasure, one of the

highest decorations of Japan. This honour was given to Senator Hays as a token of appreciation from the Japanese government for his invaluable contribution to the strong friendship between Canada and Japan, and the pivotal role he has played in shaping Canada's relations with that country.

Senator Hays, your outstanding contributions and dedication to public life have earned you a special place in the hearts of your Senate colleagues. Your presence in this chamber will certainly be missed. I wish you continued success in whatever you do, and my very best to you and Kathy as you retire from the Senate.

**Hon. David P. Smith:** Honourable senators, I rise to pay tribute to my friend, colleague and fellow Liberal, Senator Hays. I have not known him quite as long as Senator Carstairs, but I think it has been about 43 years. I was very young at the time when I was Keith Davies' right-hand guy at headquarters and travelling coast to coast every month to get ready for the 1965 election. You could not go into Calgary without sitting down with a Hays. We have heard about his five years as Speaker and his year as the Leader of the Opposition. Of course, he carried out both those roles with the bearing and demeanour of someone whom one respects, and he lends an air of credibility to this chamber.

• (1430)

I want to touch on one other aspect, namely, that Senator Hays is an Alberta Liberal. That can be challenging. Not only that, but he is a Calgary Liberal, which can be even more challenging. In 1968, Pat Mahoney won Calgary South, the seat Senator Hays' father had held from 1963 to 1965. That was the last time a Liberal MP was selected in Calgary. The entire time Senator Hays has been here, there has not been a Liberal MP from Calgary. We think of him as "the man," just as we think of Senator Fairbairn as the person for Southern Alberta.

In order for a parliamentary democracy to work, you have to have two national parties. Whether you have three, four or five national parties does not matter so much, but you have to have two: You have to have a government and an opposition. I am not trying to be partisan here, but I think that when you have two strong national parties with representation in all the regions, in a way, they form a glue that helps to keep the country together.

Dan has been one of the key Liberals in Alberta, and certainly in Calgary — I cannot say through thick and thin, because it has only been thin during his entire time, during all those lean years — and the national president of the party for four years, just as Senator Meighen was president of the Progressive Conservative Party, and Senator Atkins and Senator Murray chaired campaigns. They have all done great things, and we need people like that. I recognize contributions to political parties, because without it, this place does not work and parliamentary democracy does not work.

For that reason in particular, I want to pay tribute to you, Senator Hays. When you and Kathy return to Calgary, I hope you will continue to do missionary work on behalf of the Liberal Party. We will be praying for you. Have a wonderful time. We hope to see a lot of you. Thank you very much.

**Hon. Tommy Banks:** Dan, much has been said about you — it is all correct and it has all been heartfelt — by your colleagues on both sides of this place.

The few minutes that I want to take for my tribute to you is almost entirely personal. I have not known you for nearly as long as I would have liked, but I am looking forward to knowing you for a great deal longer.

I want to talk about the enormous sense of pride that Albertans have in you and in your family. Even though I did not know you, I knew of you and your father long before I had even a remote interest in politics. Yours is an illustrious history in Alberta, and Albertans are enormously proud of you.

On behalf of myself and everyone who came here after me — and I suspect most people who came before me — I want to thank you for your mentorship, which has always been given gladly, for your unfailing courtesy, unfathomable knowledge and inexhaustible patience when we ask you the stupid questions, and for your infinite capacity to explain things so that we can actually understand them.

I have been scolding Senator Hays ever since he announced that he was going to leave us, because just at this moment, history has brought in yet another of those matters that originated in this place, a template for a sensible reform of the Senate. Senator Hays is leaving at exactly the time that he, if all things were perfect, would be leading that charge.

However, the reasons for which you have decided to leave, Dan, are unassailable, and I wish you and Kathy the very best. I thank you personally and on behalf of all who came after I did for the great help you have been to all of us and that I hope you will continue to be. Thank you.

[Translation]

**Hon. Jean-Claude Rivest:** Honourable Senator Hays, I listened to all the compliments lavished on you by our colleagues here, and perhaps you are as surprised as I am that, throughout your long political career, no one has been able to point out any shortcomings on your part. There must be some hidden somewhere!

• (1435)

Naturally, I join all our colleagues in expressing my regret at your departure. Above all I wish to say how much we have appreciated — and, as a Quebecer and a Canadian, how I personally have appreciated — your presence and the contribution you have made while serving the country. I believe that your entire career has been distinguished by your duties — those of a minister, senator, member of the House of Commons, public servant — at the service of all our fellow citizens. You have served Canada and your province in a very special way. You have demonstrated a great openness and a very thorough understanding of Canada's linguistic and cultural duality, which enrich our country tremendously and bestow on Canada — together with the other cultural communities with which you have been associated for your entire career — a sense of respect, owing to your exceptional efforts and contributions made in both the Senate and the House of Commons.

I wish you all the best in the years to come and, once again, thank you for your immense understanding of, among other things, the protection and promotion of the French language within Canada and abroad. I had the opportunity to travel with

you to France and I have fond memories of that trip. It was there, on foreign soil, that I saw how well you articulated what Canada is all about and what represents the best of Canada. Thank you and all the best, Senator Hays.

[English]

**Hon. Leonard J. Gustafson:** Honourable senators, I will be brief. I came to know Senator Hays as a member of the Agriculture Committee. I want to tell you that he is a son of the soil. He always had a good word for the farmers and he always fought for justice for them.

I will explain it this way: As Speaker, I would ask a question and he would say, "Len, keep those questions coming." We needed that. His non-partisan attitude is exceptional.

I want to thank you for all you have contributed. On behalf of the Canadian farmers and the work you have done for them, I say thank you. You used to ask me, "How are the cattle prices doing?" You knew there was only one breed of cattle better than the Hays Converter, and that was Maine-Anjou.

Thank you, Senator Hays, and your family. God bless you.

**The Hon. the Speaker:** I would like to call on Senator Hays, who wishes to make a statement.

**Hon. Senators:** Hear, hear!

[Translation]

**Hon. Daniel Hays:** Honourable senators, I think statements should come before tributes, but it is not too late.

Mr. Speaker and honourable senators, I want you to know that I have given the Governor General notice of my intention to resign, effective June 30, 2007.

Honourable senators, it is an extraordinary experience to have the opportunity to listen to the tributes you have paid me this afternoon. I have started in French because it is probably a good idea to demonstrate that I am not as bilingual as you think. Nonetheless, I will accept the compliment. The first tribute I received was yesterday during senators' statements from my friend Senator Lapointe. He sings. It is extraordinary!

• (1440)

I very much appreciate the kind words from my francophone and francophile colleagues. It is important to have a sense of country. Canada is large and a big part of this country for me is Quebec.

I discovered Quebec with friends like Senator Hervieux-Payette. When I was President of the Liberal Party of Canada, it was necessary to visit various regions to raise funds — Senator Smith knows all about this. Such travel is good for the parties. I did not just visit Quebec, but the Maritimes, Atlantic Canada and British Columbia as well. The region where I feel most at home is the Prairies, more specifically at the foothills. I live in Calgary. It is neither the prairies nor the mountains. I am not comfortable in the mountains because I feel too closed in, and the prairies are very wide open spaces.



[English]

I, personally, have to be in the foothills where one can see a long way but is not too closed in.

I will try to be brief, Your Honour, because we have taken far too long. We are well past an hour.

I will begin by thanking my family.

[Translation]

First I would like to thank my wife Kathy, my daughters Carol, Sarah and Janet, who is not here, and my granddaughters Theodora and Alexandra. I would also like to acknowledge the presence here today of my sisters-in-law Sally and Betty and a number of other friends.

I would also like to thank my assistants over the years, Mélanie and Diane, Robert, Jean-Paul, Len and Marc. We are all well-served by our assistants; many thanks to you all.

[English]

I will speak a bit about colleagues, which is the only way I can respond to the wonderful tributes you have paid me, because if I speak to each of you individually, it will never end, which would not be good for this place.

I was thinking of Jean Lapointe, who initiated the rule that we take only 15 minutes for tributes, yet we are now an hour and a quarter into them.

It is a good thing that you were not here at the beginning, Senator Lapointe, because perhaps you would not have given leave for this abuse of the rules. In any event, I appreciate this very much.

Honourable senators, you have been very kind. You have touched me deeply. I am reminded of my benefactor, Mr. Trudeau — sometimes I thank him; sometimes I do not. It has been a great honour to serve with you all. I believe that I can call each and every one of you a friend. Most of you here have spoken. I noticed that and deeply appreciate it. I know that I am among friends.

I wish to speak a bit about the leaders under whom I have served. The first was Bud Olson; followed by Allan MacEachen; Royce Frith; Joyce Fairbairn; Alasdair Graham; Bernie Boudreau; Sharon Carstairs, my seatmate; Jack Austin and now Céline Hervieux-Payette. From my own experience, having been Deputy Leader of the Government and Leader of the Opposition, I know all of them carried a heavy burden. I appreciate their work and I thank them.

• (1445)

The Leaders of the Opposition during the same time were Duff Roblin, Lowell Murray, John Lynch-Staunton, Noël Kinsella and now Marjory LeBreton. All of them worked very hard and made a remarkable contribution, as is the case with the Liberal side, sometimes in government and sometimes in opposition.

The first Speaker I served with was Maurice Riel.

[ Senator Hays ]

[Translation]

He was a friend of mine and of my father's. He is an extraordinary man whose neighbouring office in the East Block would later become Jack Austin's.

[English]

Jack is an incredible guy. I learned a lot from him.

I was fond of Guy Charbonneau. We had our differences, but he served for two Parliaments, and I am the only other Speaker in my time here who served for two Parliaments. Mine were the Thirty-seventh and the Thirty-eighth Parliaments.

Roméo LeBlanc provided enormous leadership as Chair of the Internal Economy Committee when I first came here, and we changed the place in a profound way. It was run by one man when I came here, Walter Dean. It is now run by God knows how many people. We have a remarkable resource and I think we use it well.

The table deserves some attention. I have been here under three clerks: Charles Lussier; Gordon Barnhart, the current Lieutenant Governor of Saskatchewan — and I am pleased for him; and, of course, Paul Bélisle, the longest serving clerk in our history, probably of either House. He has been a good friend and a great adviser.

I will mention the Deputy Clerk, Gary O'Brien, and the Acting Deputy Clerk, Charles Robert. All of them have served us well and served me well, and I am proud to have been in this chamber with them over these many years.

The Senate staff is a remarkable group of people. When I was Speaker, they would move that huge dining room table in and out of the dining room for receptions and dinners, so I wish to mention them. All of the challenges of keeping the place going are met by a remarkable group of people who are our pages and our security and support personnel. They help us with all the things that we do.

Finally, I will mention the Library of Parliament. During my time here I have had the honour of chairing a few committees. On the Agriculture Committee, my deputy chair for much of that time was Senator Len Gustafson. Sometimes he was the chair and I was the deputy chair. We were well served by Jean-Denis Fréchette and June Dewetering. When I chaired the Standing Senate Committee on Energy, the Environment and Natural Resources, we did good work. The Library of Parliament supplied absolutely impeccable advice with their researchers Peter Berg, Lynne Myers and the late Dean Clay.

The committee that was spoken of earlier, which I served on with Senator David Angus, did very good work. I have saved senators a lot of time by writing a discussion paper, which I have made available. It outlines my views on what would be a good course of action for our chamber to follow in terms of its future.

[Translation]

No one deserves tributes like the ones I have been paid. I think I already said that, but it is true. It seems like a competition to see who can say the kindest words.

• (1450)

Wednesday, June 13, 2007

[English]

Every one of my colleagues has said nice things, and I will always treasure what has been said today. I will read the tributes carefully.

My family is witness to this remarkable exception to the rule, the only one — since Senator Lapointe caused the rule to change — to take this long to pay respects and say goodbye to a senator.

I will leave it at that. I thank all honourable senators. When I leave here today, I will not be back. I will be around for a few days, and I will see colleagues at the reception that His Honour is hosting.

I wish I could have properly responded to each and every one of my colleagues who gave me a tribute. I hope I will have time to do that over the next few days in letters and in other ways.

Honourable senators are always welcome at our home. Kathy and I will be hosting, we hope, many senators in Calgary. Our Stampede breakfast will be on again this year and honourable senators are invited. I hope everyone will be able to attend.

Thank you and goodbye.

**Hon. Senators:** Hear, hear!

[Translation]

## ROUTINE PROCEEDINGS

### STUDY ON CONCERNS OF FIRST NATIONS RELATING TO SPECIFIC CLAIMS PROCESS

#### GOVERNMENT RESPONSE TO REPORT OF ABORIGINAL PEOPLES COMMITTEE TABLED

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, the government's response to the fifth report of the Standing Senate Committee on Aboriginal Peoples entitled *Negotiation or Confrontation: It's Canada's Choice*.

[English]

### STUDY ON USER FEE PROPOSAL FOR SPECTRUM LICENCE FEE

#### REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE PRESENTED

**Hon. David Tkachuk,** Deputy Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

The Standing Senate Committee on Transport and Communications has the honour to present its

#### ELEVENTH REPORT

Your Committee, to which was referred the document "Department of Industry User Fees Proposal for a spectrum licence fee for broadband public safety communications in bands 4940-4990 MHz" has, in obedience to the Order of Reference of Tuesday, May 29, 2007, examined the proposed new user fee and, in accordance with section 5 of the *User Fees Act*, recommends that it be approved. Your Committee appends to this report certain observations relating to the proposal.

Respectfully submitted,

DAVID TKACHUK  
*Deputy Chair*

#### Observations of the Standing Senate Committee on Transport and Communications on a Proposal for a Spectrum Licence Fee for Broadband Public Safety Communications in the Frequency Band 4940-4990 MHz

Your Committee supports the philosophy behind the proposal, namely that the radio spectrum is a valuable asset that should be well-managed for the benefit of all Canadians. The proposed fee, chosen to reflect the economic value of the spectrum band, is an attempt to use the price system for the efficient allocation of a scarce resource. This is commendable, but your committee has several concerns with the proposal.

Your committee's first concern is that the users of this spectrum band are public safety entities (police departments, fire departments, ambulance services, etc.). These are generally non-commercial entities, often financed by some level of government and often engaged in emergency services. Many would argue that public safety entities should not pay fees that reflect the alternative use of spectrum by commercial users.

Your committee's second concern is that the fee proposed is, at best, an imprecise reflection of the economic value of the 4940-4990 MHz spectrum band. Industry Canada looked at other countries but did not find a useful model, so they took fees for commercial (and exclusive) use of spectrum in Canada and adjusted downward because the public safety spectrum would be shared. In practice, the department chose the lower end of the range for commercial-use fees and divided by four. The proposed fee is thus based on several subjective elements.

Your committee's third concern is that the quest for a fee that reflected "economic value" led the department to reject a fee based on cost recovery. In the U.S. fees for the 4940-4990 MHz spectrum band will not be chosen to reflect economic value; non-auctioned spectrum in the U.S. may only reflect the cost recovery for the management of the spectrum.



Your committee accepts the current proposal but urges Industry Canada to revisit its policy for the pricing of spectrum to be used by public safety entities. In particular, the department should consider the efficiency issues associated with fees based on cost recovery.

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Tkachuk, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

## NATIONAL FINANCE

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTINGS OF THE SENATE

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I give notice that at the next sitting of the Senate, I will move:

That the Standing Senate Committee on National Finance have the power to sit on Tuesday, June 19, 2007, and on Wednesday, June 20, 2007, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

## PUBLIC SECTOR INTEGRITY COMMISSIONER

### NOMINATION OF MS. CHRISTIANE OUMET— NOTICE OF MOTION TO REFER TO COMMITTEE OF THE WHOLE

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Senate do resolve itself into a Committee of the Whole on Tuesday, June 19, 2007, at 8 p.m., in order to receive Christiane Oumet respecting her appointment as Public Sector Integrity Commissioner;

That television cameras be authorized in the Senate Chamber to broadcast the proceedings of the Committee of the Whole, with the least possible disruption of the proceedings; and

That photographers be authorized in the Senate Chamber to photograph the witness before the commencement of the testimony, with the least possible disruption of the proceedings.

## BUDGET IMPLEMENTATION BILL, 2007

### FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons returning Bill C-52, to implement certain provisions of the budget tabled in Parliament on March 19, 2007.

Bill read first time.

[ Senator Tkachuk ]

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, with leave of this house — I discussed this matter with honourable senators yesterday — I move that the bill be placed on the Orders of the Day for consideration at the next sitting of the Senate.

On motion of Senator Comeau, bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

• (1455)

[English]

## INCOME TAX ACT EXCISE TAX ACT

### BILL TO AMEND—FIRST READING

**Hon. Charlie Watt** presented Bill S-229, to amend the Income Tax Act, Excise Tax Act, tax relief for Nunavik.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Watt, bill placed on the Orders of the Day for second reading two days hence.

## CANADA-AFRICA PARLIAMENTARY ASSOCIATION

### BILATERAL VISIT TO EGYPT, MARCH 4-6, 2007—REPORT TABLED

**Hon. A. Raynell Andreychuk:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation on the Bilateral Visit to Egypt, held in Cairo, Egypt from March 4 to 6, 2007.

[Translation]

## QUESTION PERIOD

### PUBLIC WORKS AND GOVERNMENT SERVICES

#### ADVANCE CONTRACT AWARD NOTICES— CONTRIBUTION TO COMPETITIVE PROCESS

**Hon. Céline Hervieux-Payette (Leader of the Opposition):** Honourable senators, yesterday we learned from the Canadian Centre for Policy Alternatives that 41 per cent of the 19,568 contracts awarded last year by the Department of National Defence were non-competitive sole source contracts.

Insisting that such advance contract award notices, or ACANs, are part of a competitive process, the Honourable Michael Fortier said yesterday, and I quote:

... we do not agree on definitions; let us agree to disagree. ACANs are competitive, so we could have this 'back and forth' for a long time.

Honourable senators, why is the minister contradicting the Auditor General, who said:

ACANs contribute very little to competitiveness. . . it is not a competitive process.

• (1500)

My question to the minister is: Since when is the Auditor General of Canada allowed to contradict the government and to not concur in the opinion of the minister who claims that ACANs are part of a competitive process?

**Hon. Michael Fortier (Minister of Public Works and Government Services):** I thank Senator Hervieux-Payette for her question. The Auditor General and her predecessor have indeed addressed this issue. I would suggest that you review the contents of the letters received by my predecessors, who were ministers of the Crown in your government at the time.

For years now, advance contract award notices have been regarded by governments as a competitive environment, the reason being that, following a careful scrutiny of the contracts at hand, officials come to an agreement that only one manufacturer is capable of supplying the equipment required.

However, in order to ensure that the government or procurement officer is right, the market must be informed, generally through the MERX system, which could be described as the eBay of government procurement, whenever a contract is being given to a third party. In the case of the C-17s, I even doubled the period of public consultation from 15 to 30 days. Although we doubled the period of consultation, no other manufacturer was able to demonstrate to us that they had a piece of equipment that qualified.

I can tell you that the system is working well, first of all, because it demonstrates that the government, through its procurement branch, does whatever it can in advance to identify the manufacturers that might be able provide us with the equipment. Second, we must also recognize that this saves a great deal of time.

We talk about saving public money, but we must also consider the importance of saving time in any procurement process. I think this is very good news, considering the significant delays we had accumulated with many of our clients, such as National Defence, for instance.

**Senator Hervieux-Payette:** Honourable senators, perhaps some here have read today's *The Edmonton Journal*. It contains harsh criticism to the effect that military procurement contracts worth billions of dollars were awarded to sole source suppliers, without any invitation to tender or competitive bidding process. It would

appear that, outside the government, people feel that the process is not transparent or honest, and that it does not give Canadian taxpayers, who are footing the bill, their money's worth.

Would the minister prepared to review the process? I will give him a few things to think about. When it comes to competitive bidding for sophisticated equipment, it is not necessarily the design of the equipment that is most important, nor the colour of the helicopter or the kind of wheels under the helicopter; rather, it is the function that is most important. We have seen in the past, under a previous government, public servants who worked for years to develop a helicopter that never existed and that had to cost a certain amount. We learned that, in this kind of undertaking, it could take a very long time to develop the product and determine the specifications and, finally, contracts were awarded. After being told that we would have the products off the shelf, that we could purchase them immediately the next day, many years went by and the products were still not purchased.

The minister must deal with the Department of National Defence, which has needs that we all recognize, and also with the people who claim that only one product fulfils the requirements. While it takes years to develop specifications for a product, we require a supplier to submit a bid and be able to deliver the product in 15 or 30 days.

Can the minister commit to examining this over his summer holidays and getting back to us with more serious proposals for awarding billion-dollar procurement contracts proposed by a number of suppliers throughout the world and for which Canada should get a better bang for its buck?

• (1505)

**Senator Fortier:** Honourable senators, I will have to address some criticisms of the Leader of the Opposition. She is wrong. This is far from being an opaque system, it is very transparent. I explained it earlier. The specific needs, the parameters required by Parliament, are set out in MERX, regardless of what product we want to buy. I do not know what more we can do.

With respect to the equipment, the C-17, you are talking about asking a manufacturer to deliver equipment in 15 or 30 days. This is not the case. We give it 30 days to analyze the criteria we want to have, for existing equipment.

You brought up the argument for contracts, for ACANs. That is exactly why we use it. Thus, we no longer purchase equipment that does not exist and that will take 15 years to be delivered to the army. It will never be delivered — not within the time required or within the budget. We will no longer do this.

**Senator Hervieux-Payette:** I will give the minister another chance to explain. I am quite well aware of the tendering process. At some point, we have all met with government suppliers, who are often extremely frustrated because they knew that the specifications provided fit a single product and that the government was looking for this specific product, not a product to serve a particular function. I think that the process needs to be re-examined. You say that everything is published. It is true that the specifications are published, but if the specification writers know in advance that only one supplier in Canada will meet the



specifications, I do not think that we are fulfilling our obligation to provide the best product for a specific purpose, when a number of other products might fit the bill but do not meet the departmental officials' narrow specifications.

I am asking the minister to re-examine this process and consider how to improve the value to taxpayers, with products delivered on time and at the best possible price.

**Senator Fortier:** Honourable senators, I am afraid I do not understand what the Leader of the Opposition is driving at. You first talked about ACANs, then non-existent equipment and finally an opaque, secret system where nothing is transparent. My answer is that everything is transparent and that we plan to purchase existing equipment.

For example, take the C-17, which is military equipment. That is what you are interested in. Does the Leader of the Opposition know of any other aircraft that would meet the criteria set out in the ACAN? If so, she should let us know. I know the market well enough to know that if another manufacturer had been able to provide the same equipment, we would have held a competition.

I told Senators Carstairs this yesterday. We used an ACAN, which is a tendering process. I invite you to read the Treasury Board rules, which were probably written when you were in government. These rules have existed for a very long time. It is a tendering process. I invite you to examine the financial terms we got for the purchase of these four aircraft. As I said yesterday, based on what we know about other countries, we got the best price ever paid in the history of the C-17 aircraft, a price that benefits the purchaser. I think that the taxpayers and the Canadian Forces came out ahead. This is an example to follow, not something to criticize.

[English]

#### DEPARTMENT OF NATIONAL DEFENCE NON-COMPETITIVE CONTRACTS

**Hon. Sharon Carstairs:** Honourable senators, my question is for the Minister of Public Works. In 2004-05, 15 per cent of the money spent, \$1.4 billion, was in "non-competes." In 2006-07 it was 34 per cent of the money spent, or \$3.5 billion. The percentage has increased from 15 to 34 per cent. Does the minister not understand that this requires a review?

**Hon. Michael Fortier (Minister of Public Works and Government Services):** I thank the honourable senator for the question. She is using figures with which I disagree, as she knows. I do not consider Advance Contract Award Notices, or ACANs, to be sole-sourced, but rather to be competitive processes.

• (1510)

I know that the honourable senator knows how they work. They are published. The ability for third parties come to the government and indicate that they can actually manufacture or deliver whatever it is we are looking for has happened in the past, thankfully, so the system does work.

With respect to the military, as the honourable senator knows, because I know she has been around these issues far longer than I, and I say this respectfully, in some cases it has taken us 10, 12 or

14 years to deliver a particular piece of equipment. I do not want to be partisan. I do not think it is a bad idea to be buying off the shelf. It is the beginning of a good idea. This stuff is off the shelf, and it meets the specifications that our experts at National Defence require. To be quite honest, I am trying to find what is broken that I need to fix.

**Senator Carstairs:** Those figures do not include the C-17s.

#### FINANCE

##### ATLANTIC ACCORD— OFFSHORE OIL AND GAS REVENUES

**Hon. Jane Cordy:** Honourable senators, in relation to the Atlantic accord, could the Leader of the Government in the Senate tell this chamber the difference between a negotiation and a discussion?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for the question. I did not bring my copy of Webster's or Oxford with me, but I believe that the words "negotiation" and "discussion" can fit a wide range of activities. I expect the honourable senator is asking the question in view of the discussions held yesterday with the Premier of Nova Scotia. I understand the discussions went very well, as was indicated by the premier. Without getting into the finite definitions of "negotiation" or "discussion," for the moment I will refer to them as discussions.

**Senator Cordy:** I understand the leader's confusion. In fact, Minister Flaherty used the same confusion and semantics to mislead Atlantic Canadians in an article in Saturday's *Chronicle-Herald*. Bill Casey said there was a side deal for Nova Scotia. Premier MacDonald thought he was negotiating a deal with the Harper government. Is this government negotiating a deal with Nova Scotia or is it not?

**Senator LeBreton:** It is very clear that the government brought in the budget in March 2007. It is very clear that, in the budget, the O'Brien committee recommendations were brought in, with the exception of Newfoundland and Labrador and Nova Scotia. In both those cases, the government stood by its commitment to those provinces that the Atlantic accord, as negotiated by the previous government, and the equalization payments that were in effect when the accord was negotiated would be honoured, without a cap. That is what has happened.

I knew Premier Danny Williams would eventually be of some help to us because he has been so over the top, so outrageous and so irresponsible in playing the national unity card that he has caused thinking Canadians to look at what is actually happening here. I am very pleased to note in today's newspapers and editorial comments that this issue is clear now. Both of these provinces have the option of staying within the accords that were signed by the previous government, the previous Prime Minister, or opting into the new agreement. It is becoming crystal clear. I am very happy, as I said, to see all of the national newspapers actually acknowledging this fact, including *The Globe and Mail*, which often I do not like to quote because at different times I have had differences with *The Globe and Mail*.

• (1515)

The fact is that the government made a commitment to these provinces, and we have kept the commitment. We must govern for all of Canada. In the last election campaign, when the leader of the Conservative Party, Mr. Harper, raised the question of fiscal balance, the other party was in complete denial, including the then leader, Paul Martin, and the current leader, Stéphane Dion. They said that fiscal imbalance was not an issue at all.

I believe the government has taken the right step. We must govern for all of Canada. We cannot have a situation such as happened with Danny Williams and former Prime Minister Paul Martin, when Mr. Williams threatened to tear down the Canadian flag and bullied him. The problem was that Paul Martin paid a lot of attention to those tactics. The current Prime Minister does not.

**Senator Cordy:** Honourable senators, if the leader read the Atlantic accords and the budget, she would know that this agreement has not been honoured by this government. It is crystal clear to me that agreements signed in good faith by the Governments of Nova Scotia and Newfoundland and Labrador have been broken by the Stephen Harper government.

This government has abandoned Atlantic Canada. Stephen Harper's arrogant attitude of "so sue me if I break my word" should not be the Canadian way. We have learned today that the Premier of Saskatchewan has told his provincial justice department to pursue legal action against the federal government over equalization. Why should our provinces and territories have to pursue legal action whenever Mr. Harper breaks his word?

**Senator LeBreton:** Honourable senators, I was very interested in the news that the Premier of Saskatchewan has instructed his department of justice to take legal action against the federal government. We are all wondering what legal action he is suggesting, because there was no accord signed with the Province of Saskatchewan, although they have put forward their own accord. Are they going to sue the federal government for not following their accord?

**Senator Cordy:** It is just a beginning.

**Senator LeBreton:** This is an interesting question.

The government has not abandoned Nova Scotia or Newfoundland and Labrador. This has now been acknowledged by people who are finally looking into the issue.

Since the honourable senator is talking about Nova Scotia, let us go over what Budget 2007 did for Nova Scotia.

Budget 2007 fully honours the commitment to respect the province's offshore accord by allowing Nova Scotia to operate under the existing equalization system for the life of the accord. They had that option. Nova Scotia has chosen a new system this year, which will result in the province receiving \$95 million in additional benefits.

In 2007-08, equalization will deliver over \$1.3 billion to Nova Scotia.

**Some Hon. Senators:** Oh, oh!

**The Hon. the Speaker:** Order. I know that honourable senators recognize the difference between this house and the other place.

**Senator LeBreton:** Thank you, Your Honour.

I was raised on a farm and I have a very loud voice. I used to be able to yell loudly enough so that my father and brother in the back field could hear me when it was time for lunch.

**Senator Cools:** Confessions.

**Senator LeBreton:** It is not a confession; it is something I am very proud of.

As I was saying, compared to what it received in 2005-06, Nova Scotia will receive an additional \$327 million in federal transfers and programs over the next two years. Budget 2007 fully honours the commitment to respect the province's offshore accord by allowing Nova Scotia to operate under the existing equalization system for the life of the accord. Nova Scotia has chosen a new system for this year, which will result in the province receiving \$95 million in additional benefits. In 2007-08, equalization will deliver over \$1.3 billion to Nova Scotia, while the offshore accord adds another \$130 million.

• (1520)

Budget 2007 is a good budget for Nova Scotia. In addition to the equalization money, it provides the province with \$24.2 million for the patient wait times guarantee trust; \$63 million for infrastructure funding, which was applauded by Nova Scotia's deputy premier; \$42.5 million for the clean air and climate change trust fund; and \$15 million for the Life Science Research Institute in Halifax.

The budget also provides the people of Nova Scotia with tax relief through the Working Income Tax Benefit, the so-called WITB, which will provide workers in Nova Scotia with \$17.8 million. In addition, the change to the basic spousal amount in the budget will save Nova Scotians \$8.3 million.

**Hon. James S. Cowan:** Honourable senators, a report released today by the Atlantic Provinces Economic Council, a well-respected and non-partisan independent think tank, says that all Atlantic provinces will be worse off as a result of this government's betrayal of the Atlantic accord. In particular, Nova Scotia will lose \$1.4 billion.

**Some Hon. Senators:** Shame!

**Senator Cowan:** In light of this new, irrefutable evidence, will the Leader of the Government in the Senate urge her colleagues in the cabinet to reconsider their position on the Atlantic accord and honour the commitments made in the accord and supported by her party, promises that the Prime Minister made to Atlantic Canadians and has now broken?

**Senator LeBreton:** Honourable senators, I am aware of the report of this think tank. Every time I hear about a report from a think tank, whether this particular one, the C.D. Howe Institute or the Conference Board of Canada, I always say, "Oh, my goodness, not another think tank."



That is their opinion. The fact is that all provinces are better off under the new, enriched equalization formula. All the independent think tanks are perfectly entitled to their opinions. The government must govern for all of Canada and for all Canadians. Unfortunately, we have come through an era where, rather than govern in the interests of hard-working, tax-paying Canadians, we have had governments that spent far too much time trying to appease this or that think tank. The fact is that the equalization formula benefits all provinces. The think tank is wrong.

**Senator Cowan:** I am interested to hear the minister suggest that the commitments that were made and the signed agreements between the Government of Canada and the governments of the provinces are somehow appeasements to think tanks. That is an interesting spin.

The leader draws our attention repeatedly to the choice that has been offered to the Governments of Nova Scotia and Newfoundland and Labrador. They can either have the deal they signed or enter into some new arrangement that may offer some temporary benefits.

The APEC report goes on to say that giving some provinces and not others the option to choose essentially creates two different equalization systems, which is surely not sustainable in our federation.

Instead of aggravating relations with the provinces, threatening lawsuits and creating two different and unsustainable equalization systems, why not simply do the right thing and honour the commitments contained in the Atlantic accord?

**Senator LeBreton:** If the honourable senator read the report, the study's authors say that both provinces would be clearly be better off sticking with the status quo and their 2005 Atlantic accord. That is what we have offered to do.

**Senator Cowan:** No, you have not. Absolutely not.

**Senator LeBreton:** The O'Brien committee was set up by the previous government and presented its findings to the provinces. If the honourable senator is worried about the other provinces, especially the paying provinces — British Columbia, Alberta and Ontario, plus Manitoba, Quebec, New Brunswick and P.E.I. — the O'Brien formula was presented to the provinces, and the provinces could not come to an agreement.

• (1525)

Since we are on the issue of fiscal imbalance and the honourable senator is so concerned about what the other provinces might be getting, as I mentioned earlier, in the last election campaign, we were the only party that campaigned and brought to the forefront the whole issue of equalization.

All provinces and territories will receive more funding and transfers this year and each year into the future, including the following investments: \$2.1 billion over the next two years for equalization; an increase of \$800 million to post-secondary education for 2008, rising by 3 per cent per year afterwards;

\$16.3 billion over seven years for infrastructure; \$250 million per year to the provinces and territories for child care spaces; \$3 billion over seven years for labour market training; and a \$1.5 billion trust fund for clean air and GHG reductions.

The first budget under our new government, Budget 2006, took a major step towards resolving the fiscal imbalance by setting out a principles-based plan and taking immediate action.

Budget 2007 follows through on that plan and goes further. It restores fiscal balance with the provinces and territories by putting transfers on a long-term footing so we do not have to go through this same thing year after year, it makes government more accountable to Canadians by clarifying roles and responsibilities, it provides taxpayers with a tax-back guarantee; and it strengthens the economic union based on the plans set out by the Minister of Finance in Advantage Canada.

**Senator Stratton:** Hear, hear!

## FISHERIES AND OCEANS

### NORTH ATLANTIC SALMON CONSERVATION ORGANIZATION—PROTECTION OF NATIVE POPULATIONS

**Hon. Michael A. Meighen:** Honourable senators, my question is for the Leader of the Government in the Senate and also deals with matters relating to the Atlantic area.

Last week, representatives from the Department of Fisheries and Oceans gathered with their counterparts from across the North Atlantic at a conference in Bar Harbour, Maine. The North Atlantic Salmon Conservation Organization, NASCO, is a treaty conference attended each year since 1983 by Canada and 17 other nations that have wild Atlantic salmon populations spawning or migrating in their territories. All signatory nations were asked to submit implementation plans with a timetable and commitment to action, outlining how they intend to better protect their native populations of wild Atlantic salmon in line with their NASCO obligations.

I am sorry to have to report that a review group made up of representatives of government and NGOs gave Canada a failing mark, only seven out of 13. Given the fact that a recent public opinion study conducted for the DFO indicates that wild Atlantic salmon are very important to the cultural and economic values of all Canadians, from Bonavista to Vancouver Island, and indeed that Canadians consider the wild Atlantic salmon among the most important species for the Government of Canada to conserve and to fund, alongside whales and Atlantic cod, will the Leader of the Government in the Senate describe for us the process that will be taken to achieve for Canada a perfect score of 13 out of 13, such as received by the United States, England and Wales?

Will that process be a meaningful and realistic examination that links Canada's actions with the requirements of national agreements on fisheries management, protection of habitat and control of the impacts of aquaculture and related activities on the wild Atlantic salmon populations?

Finally, will DFO consult with the stakeholders, such as the Atlantic Salmon Federation, as it revises its implementation plan that is due for re-submission to NASCO review group by November 1 of this year?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for his question.

**Senator Fortier:** Best question of the day.

**Senator LeBreton:** The report comparing Canada to other countries is not something to celebrate. Senator Meighen is quite right to have drawn it to our attention. We will certainly work to do better.

Of course, the Canadian government takes conservation of salmon seriously. We will work closely and consult with our stakeholders, including the Atlantic Salmon Federation. We have recently released our new wild Atlantic salmon policy for stakeholder consideration, and we look forward to their feedback.

When we hear from them, it will also help support our response to the NASCO review. The government is already directing significant financial resources and conservation efforts to protect the Atlantic salmon.

There is \$30 million provided to the Atlantic Salmon Endowment Fund; \$2 million annually on salmon-related scientific research; 75,000 hours annually on enforcement; and strict catch limits in the recreational fishery.

We are looking for new ways to improve the conservation. It is a serious problem, and once we receive feedback from our stakeholders, the government will continue on this action and hopefully improve our report card next year.

• (1530)

#### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Before proceeding to Delayed Answers, honourable senators, I wish to draw your attention to the presence in the gallery of representatives of the World Health Organization who are celebrating World Blood Donor Day tomorrow which Canada is hosting.

On behalf of all honourable senators, I wish to welcome the representatives of the WHO to the Senate of Canada.

[Translation]

#### DELAYED ANSWERS TO ORAL QUESTION

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour of presenting the delayed answer to an oral question raised by Senator Hervieux-Payette on May 15, 2007, in regard to support for arts and culture, as well as the funding of international tours.

#### HERITAGE

##### SUPPORT FOR ARTS AND CULTURE

*(Response to question raised by Hon. Céline Hervieux-Payette on May 15, 2007)*

The International Cultural Relations Division (PCR) of the Department of Foreign Affairs and International Trade administers an Arts Promotion Program (known informally as PROMART) which disbursed more than 340 grants totalling \$4.4 million in the 2006-2007 Fiscal Year. PROMART grants continue to fund Canadian artists and cultural organizations performing on the international stage, using Canada's cultural success stories in international markets to support DFAIT's Foreign Policy and Trade objectives.

PROMART grants highlight the significant results achieved by the Cultural Grants Program, using culture as an instrument of Canadian foreign policy. In the 2006-07 Fiscal Year, Les Grands Ballets Canadiens received a grant of \$155,000 for 22 performances in the United States of America; l'Orchestre Symphonique de Montréal, a grant of \$80,000 to perform in Paris; and the Royal Winnipeg Ballet, a grant of \$40,000 for 12 performances in the United States of America. The program's Annual Reports will shortly be available on its website at <http://www.dfait-maeci.gc.ca/arts/>.

#### ORDERS OF THE DAY

##### CANADA ELECTIONS ACT PUBLIC SERVICE EMPLOYMENT ACT

##### BILL TO AMEND—THIRD READING— DEBATE ADJOURNED

**Hon. Pierre Claude Nolin** moved third reading of Bill C-31, to amend the Canada Elections Act and the Public Service Employment Act.

He said: I will speak briefly about this very important bill, which is at third reading stage. It is a very lengthy bill, but rest assured that your colleagues of the Standing Senate Committee on Legal and Constitutional Affairs have carefully and thoroughly examined this bill to amend the Canada Elections Act and the Public Service Employment Act.

Without reiterating all the points raised during the various speeches made in this chamber, we must remember that this is a bill that follows a rather complex process. In fact, after every general election, the Chief Electoral Officer produces a report indicating the series of changes that he would like to see made to the electoral process and primarily to the Elections Act.

This was the case after the 38th general election. Unfortunately, or fortunately depending on your point of view, a second election was held fairly quickly and the members did not have the time to examine the 38th Report of the Chief Electoral Officer after the



38th election. They had to wait until after the next general election and that is what they did. They produced, with general agreement, a fairly exhaustive report on a series of items for discussion. The government then responded to the Senate committee report by tabling Bill C-31.

For a few months we have had Bill C-31 before us. I would like to provide a brief overview of this bill, which seeks to make improvements to the National Register of Electors as well as the lists of electors distributed during an election period and annually to the various members and political parties.

The purpose of this bill is to facilitate voting, which is one of our most important principles; to enhance communications with the electorate; and to amend the voter identification process to prevent electoral fraud. There is also one final change that we have already discussed: the change to the Public Service Employment Act.

You will recall that we discussed whether it was appropriate to adopt a broad amendment to allow the entire federal administration to amend the 90-day limit for casual employees. We decided, very wisely, I think, to limit the Chief Electoral Officer's ability to extend this 90-day period to a fixed and non-cumulative period of 165 days per year.

Honourable senators, like me, you received throughout the review process of this bill, a rather significant amount of correspondence from a number of Canadians who were concerned about including in the lists of electors, which are made "public" since they are distributed to a wide range of recipients, each voter's full date of birth.

The Standing Senate Committee on Legal and Constitutional Affairs studied this issue at length and presented a report that amended the issue.

Last week I announced that the government reserved the right to introduce an amendment in the other place, since our bill will be amended. I therefore have no intention of going any further on this part of the debate.

I understand and respect the concerns expressed by a number of the witnesses that we heard. I think the debate is not over. The issue of electoral fraud is a matter of real concern, but we have not received much evidence that such a fraudulent mechanism is used systematically. I do not think it has gone that far, but it is good to be prepared.

In closing, I must say that I had a discussion with Senator Joyal who, like me, considered the possibility of amending the bill at third reading stage. I do not want to deny him his announcement in due course, but I would like to say that I too had raised the possibility of proposing an amendment to limit the identification of each voter by keeping only the initial of their first name in order to protect the voters, because this information circulates rather significantly every year and during the course of an election.

Nevertheless, after discussing the matter with Senator Joyal, I have decided to curb my enthusiasm and wait. You will understand once he gives his speech. Let us take our time and

wait until the time is right, so see if we should change voters' lists so that each voter's full name no longer appears and only the voters' initials will be used to identify them when they go to vote at polling stations.

Honourable senators, I urge you to support Bill C-31. We have already amended it, so our colleagues in the other place are waiting impatiently for us to return this bill to them, and I think we can do that without delay. I would be pleased to answer any questions you might have.

**Hon. Serge Joyal:** Honourable senators, I do not have any questions for Senator Nolin. Unless any other senators have questions, I would like to begin the debate at third reading now.

[English]

Honourable senators, this is an important bill. It will change the rules of the game in a very substantial way in relation to the identification of voters. As Senator Nolin has mentioned, after each election there has been a report from the Chief Electoral Officer on the amendments that he proposed. There have been allegations of problems of voter identification when people come to the polls to exercise their free and democratic right, according to the Charter, of voting in a federal election.

• (1540)

Comments were made about the problem of voter identification that might have been encountered in some ridings, not on an overwhelming scale but on a very limited scale. In fact, there was an investigation led by Ontario, and there were perhaps only one or two cases. It was a "maybe"; it was not even proven that there was a problem.

The committee in the other place that studied this proposed legislation came forward with amendments to the original draft of the government bill by adding the date of birth of the voters to the list of voters. One cannot help but have the reaction that if you publish that on a large scale — and the bill provided that, in the form of electronic disk, which is easy to copy — you will be giving worldwide access to all the details necessary to steal the identity of a person.

There is a report of the RCMP on this problem, and even a special committee in the other place is studying the problems represented by stealing people's identity. We know this is a contemporary problem because of the new technology. It is very easy now, with a punch card, to substitute the name of someone with another person's information. With the proper details of information such as date of birth, address, sex and so on, one can even fabricate someone's identity. That has reached a high level of what we call white-collar crimes today.

Of course, in this chamber, we are always cautious when we look into amendments to the Canada Elections Act that have been brought in the other place because we are told that we are not elected. Not being elected, we should just close our eyes, hold our nose, put a plug in our ears and pass the bill. We are sorry that this is not exactly the role of this chamber in relation to the rights of citizens, especially when we are dealing with the privacy rights of citizens.

In that case, after having heard the Privacy Commissioner, we came clearly to the conclusion, which was shared by many senators around the table — including Senator Fraser, Senator

Nolin, Senator Andreychuk, Senator Milne and our friends, Senator Baker and Senator Carstairs, who spoke on this — that this is a major problem. When one wants to improve the system to remove potential fraud —

**Senator Oliver:** Believe it or not, I was there, too. I chaired the meeting.

**Senator Joyal:** One cannot, at the same time, create bigger problems by giving greater access to someone's privacy and making it easier to steal their identity. One can make a bigger problem than the one one wants to solve.

That was essentially the conclusion that we came to when we looked at the amendments that were brought into the chamber by the Liberal Party and the Bloc Québécois. We thought that was an important point that we had to review; and I concur with the committee report that we had to amend the bill to remove the amendments that were brought in the other place over the identity of the voters.

Honourable senators, this bill will change something fundamental; it will change the electoral system from a system where a voter is freely identified, to a system whereby the voter has to prove who he or she is. That is totally different.

In other words, from being a free society, where a person can go to the polling station and say, "I am Mr. or Ms. or Ms. so and so," one will now have to prove one's identity with two very specific documents. One can immediately conclude what this will represent for some groups of Canadian voters.

Again, the right to vote, honourable senators, is found in section 3 of the Charter of Rights and Freedoms. It is a right that cannot be suspended under the notwithstanding clause, section 33. It is a fundamental right.

When there is additional difficulty for any group of citizens to go to the polls and vote, one must ask: Are we doing the thing that is less intrusive, cumbersome and difficult to meet for any group of citizens; or are we creating, for some groups of citizens, an additional bar to exercise their right to vote? This is a very fundamental question related to a Charter right.

It is the privilege and the duty of this chamber, when we have to deal with the Canada Elections Act, to ask ourselves that question and to give an answer. I believe the committee gave an answer to that question.

Honourable senators, there were other problems that this bill contained that I want to raise quickly in the allotted time I have this afternoon. I am keeping my eye on the new watch of the Speaker.

The other element of this bill that we questioned was the process of vouching. Vouching is the capacity of a voter to come to the polling station and have someone confirm their identity. However, the bill contains a prohibition or a limitation. A person can vouch only for one other person, provided that the voucher is registered in the same electoral district's polling station as the person that is being vouched for.

Let me give honourable senators an easy example. You live in an apartment building, and the doorman or the manager of the building is registered in the same polling district as

you. Theoretically, it is the same address, same building and same street. You live with a spouse. That person will be able to vouch for only one of the two. Or if you are the parent of two children who are of voting age, you will be able to vouch for only one of the two children.

It seemed to us that there was something there that did not make sense. We raised that question because we thought that, with the good intention to provide better assurance that we identify the voters, we are creating a distortion of the freedom to exercise voting rights.

Many senators around the table raised that issue. Senator Baker was the first to do so when we listened to the minister testifying before the committee. I wrote to the Chief Electoral Officer on May 17, in between the two studies on that bill, to ask him if there would not be a system whereby we could make vouching easier — again, in respect of the spirit of section 3 of the Charter to make the voting easy — providing we keep the capacity to better identify the voters.

We raised many other examples, honourable senators. For instance, there are people who are serviced by the food banks — people who happen to be homeless, or who do not have a permanent address that is confirmed by many public or civil documents. After our representation, we succeeded in improving, to a point, the system. We received a commitment from the new Chief Electoral Officer, Mr. Marin, to use section 142.3 of the Canada Elections Act so that the Chief Electoral Officer could provide the capacity for an administrator of a food bank or of a shelter to come with the list of the people who are serviced by that institution and confirm the identity and the residence of the person. However, it is not complete in terms of what we should expect from a vouching system that would be more flexible.

We had another concern, honourable senators, that I will speak to quickly, which is in relation to the misuse of the electoral list. As I mentioned, the new electoral list is now in the form of an electronic disk. Again, there is nothing easier to copy than an electronic disk. Anyone can register with the chief electoral officer of a riding, file the paper, pay \$200 and get a copy of that electronic list.

We asked: If a person misused that electronic list, what would the penalty entail? What fine or prosecution will the person have to face? According to section 500 of the Canada Elections Act, the person will face a maximum penalty of \$1,000. Any RCMP officer who investigates the white-collar crime of identity theft can tell you that personal details of any person is worth at least \$5 on the black market. Multiply that by the number of names that appear on a list of electors, which can be obtained for a mere \$200 plus a potential fine of \$1,000, and you can understand why this opens the floodgate to additional capacity for the misuse of personal information.

• (1550)

If honourable senators think I am inventing what I am telling them today, the Privacy Commissioner of Canada, Ms. Jennifer Stoddart, stated quite clearly that the penalty cannot be changed through regulation and that the Canada Elections Act would have to be amended to prevent such identity theft. She told the committee quite clearly that the penalty is insufficient to act as a



reasonable deterrent. As honourable senators know, penalties are in place to act as deterrents to wrong behaviour. People tend to refrain from wrongdoing when the penalty is higher than \$1,000.

I asked the Chief Electoral Officer of Canada, Mr. Marc Mayrand, if he would consider it appropriate that we amend the bill to increase the level of the penalty. I quote Mr. Mayrand's response in his testimony before the committee on May 30, 2007:

From my perspective, certainly not, because it is an issue of trust in our electors and in our electoral system. We have to show that these matter are taken very seriously and will lead to serious consequences if the lists are mishandled. I do not see any downside to that.

The Chief Electoral Officer welcomed the suggestion to increase the penalty. The Privacy Commissioner advised the committee to increase the penalty so that its deterrent nature would be much more influential than it is now.

#### MOTION IN AMENDMENT

**Hon. Serge Joyal:** Honourable senators, with the support of the two people responsible for protecting privacy and administering the electoral act, I move:

That Bill C-31 be not now read a third time now but that it be amended,

(a) on page 15, by adding after line 30 the following:

**"37.1 Subsection 487(1) of the Act is replaced by the following:**

**487. (1) Every person is guilty of an offence who contravenes**

(a) paragraph 111(b) or (c) (applying improperly to be included on list of electors); or

(b) paragraph 111(f) (unauthorized use of personal information contained in list of electors)."; and

(b) on page 16, by adding after line 29 the following:

**"39.1(1) Subsection 500(2) of the Act is replaced by the following:**

(2) Every person who is guilty of an offence under any of subsection 485(1), paragraph 487(1)(a), subsections 488(1), 489(2) and 491(2), section 493 and subsection 495(2) is liable on summary conviction to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or to both.

**(2) Section 500 of the Act is amended by adding the following after subsection (3):**

(3.1) Every person who is guilty of an offence under paragraph 487(1)(b) is liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both."

Honourable senators, we asked what the penalties are for similar offences at the provincial level: Alberta, \$100,000; Ontario, \$5,000. Fines at the provincial level are much higher than they are at the federal level. It is appropriate that we adjust the level of the fine to ensure a sufficient deterrent to persons who would consider misusing the list of electors.

**The Hon. the Speaker:** Honourable senators, I will put the motion in amendment.

It was moved by the Honourable Senator Joyal, seconded by the Honourable Senator Robichaud:

That Bill C-31 be not now read a third time but that it be amended —

**Hon. Senators:** Dispense!

**The Hon. the Speaker:** Honourable senators, is there debate on the amendment?

On motion of Senator Nolin, debate adjourned.

#### FIRST NATIONS LAND MANAGEMENT ACT

##### BILL TO AMEND—MESSAGE FROM COMMONS

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons returning Bill S-6, to amend the First Nations Land Management Act, and acquainting the Senate that they had passed this bill without amendment.

[Translation]

#### GENEVA CONVENTIONS ACT

##### ACT TO INCORPORATE THE CANADIAN RED CROSS SOCIETY TRADE-MARKS ACT BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-61, to amend the Geneva Conventions Act, the Act to Incorporate the Canadian Red Cross and the Trade-marks Act.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Comeau, bill placed on the Orders of the Day for second reading for two days hence.

The Senate adjourned until Thursday, June 14, 2007, at 1:30 p.m.

## CONTENTS

Wednesday, June 13, 2007

PAGE

PAGE

### SENATORS' STATEMENTS

#### Tributes

The Honourable Daniel Hays, P.C.	
Hon. Gerald J. Comeau	2649
Hon. Céline Hervieux-Payette	2649
Hon. Marjory LeBreton	2649
Hon. Noël A. Kinsella	2650
Hon. Joan Fraser	2650
Hon. Rose-Marie Losier-Cool	2651
Hon. Lowell Murray	2651
Hon. Sharon Carstairs	2652
Hon. W. David Angus	2652
Hon. Joyce Fairbairn	2653
Hon. Pierre Claude Nolin	2653
Hon. Jeremiah S. Grafstein	2653
Hon. Consiglio Di Nino	2654
Hon. Marie-P. Poulin	2654
Hon. Gerry St. Germain	2654
Hon. Claudette Tardif	2654
Hon. Elaine McCoy	2655
Hon. Dennis Dawson	2655
Hon. Yoine Goldstein	2656
Hon. Catherine S. Callbeck	2656
Hon. David P. Smith	2656
Hon. Tommy Banks	2656
Hon. Jean-Claude Rivest	2657
Hon. Leonard J. Gustafson	2657
Hon. Daniel Hays	2657

### ROUTINE PROCEEDINGS

#### Study on Concerns of First Nations Relating to Specific Claims Process

Government Response to Report of Aboriginal Peoples Committee Tabled.	
Hon. Gerald J. Comeau	2659

#### Study on User Fee Proposal for Spectrum Licence Fee

Report of Transport and Communications Committee Presented.	
Hon. David Tkachuk	2659

#### National Finance

Notice of Motion to Authorize Committee to Meet During Sittings of the Senate.	
Hon. Gerald J. Comeau	2660

#### Public Sector Integrity Commissioner

Nomination of Ms. Christiane Ouimet—	
Notice of Motion to Refer to Committee of the Whole.	
Hon. Gerald J. Comeau	2660

#### Budget Implementation Bill, 2007 (Bill C-52)

First Reading.	
Hon. Gerald J. Comeau	2660

#### Income Tax Act

Excise Tax Act (Bill S-229)	
Bill to Amend—First Reading.	
Hon. Charlie Watt	2660

#### Canada-Africa Parliamentary Association

Bilateral Visit to Egypt, March 4-6, 2007—Report Tabled.	
Hon. A. Raynell Andreychuk	2660

### QUESTION PERIOD

#### Public Works and Government Services

Advance Contract Award Notices—	
Contribution to Competitive Process.	
Hon. Céline Hervieux-Payette	2660
Hon. Michael Fortier	2661
Department of National Defence Non-competitive Contracts.	
Hon. Sharon Carstairs	2662
Hon. Michael Fortier	2662

#### Finance

Atlantic Accord—Offshore Oil and Gas Revenues.	
Hon. Jane Cordy	2662
Hon. Marjory LeBreton	2662
Hon. James S. Cowan.	2663

#### Fisheries and Oceans

North Atlantic Salmon Conservation Organization—	
Protection of Native Populations.	
Hon. Michael A. Meighen.	2664
Hon. Marjory LeBreton	2665

#### Visitors in the Gallery

The Hon. the Speaker.	2665
-----------------------	------

#### Delayed Answers to Oral Question

Hon. Gerald J. Comeau	2665
-----------------------	------

#### Heritage

Support for Arts and Culture.	
Question by Senator Hervieux-Payette.	
Hon. Gerald J. Comeau (Delayed Answer).	2665

### ORDERS OF THE DAY

#### Canada Elections Act

Public Service Employment Act (Bill C-31)	
Bill to Amend—Third Reading—Debate Adjourned.	
Hon. Pierre Claude Nolin	2665
Hon. Serge Joyal	2666
Motion in Amendment.	
Hon. Serge Joyal	2668

#### First Nations Land Management Act (Bill S-6)

Bill to Amend—Message From Commons.	
The Hon. the Speaker.	2668

#### Geneva Conventions Act (Bill C-61)

Act to Incorporate the Canadian Red Cross Society	
Trade-marks Act Bill to Amend—First Reading	2668





*If undelivered, return COVER ONLY to:*  
Public Works and Government Services Canada  
Publishing and Depository Services  
Ottawa, Ontario K1A 0S5





CANADA

# Debates of the Senate

---

1st SESSION

•

39th PARLIAMENT

•

VOLUME 143

•

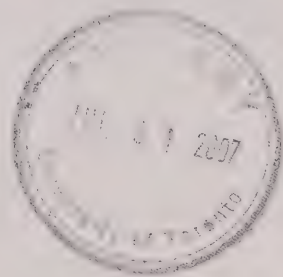
NUMBER 108

---

OFFICIAL REPORT  
(HANSARD)

**Thursday, June 14, 2007**

—  
**THE HONOURABLE NOËL A. KINSELLA  
SPEAKER**





## CONTENTS

(Daily index of proceedings appears at back of this issue).

---

*Debates and Publications:* Chambers Building, Room 943, Tel. 996-0193

Published by the Senate  
Available from PWGSC – Publishing and Depository Services, Ottawa, Ontario K1A 0S5.  
Also available on the Internet: <http://www.parl.gc.ca>

## THE SENATE

Thursday, June 14, 2007

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

### SENATORS' STATEMENTS

#### WORLD ELDER ABUSE AWARENESS DAY

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, on June 15, 2007, Canadians will join together to recognize the second annual World Elder Abuse Awareness Day.

World Elder Abuse Awareness Day was first declared last year by the World Health Organization and the International Network for the Prevention of Elder Abuse. It is an opportunity to raise awareness of the abuse of older adults as a means to prevent and combat all types of elder abuse. It is also an important opportunity to recognize the local, provincial, territorial and federal partnerships that promote the safety, security and well-being of seniors.

In Canada, elder abuse has become a priority issue for all levels of government. Elder abuse exists in many ugly forms whether it be physical, emotional, verbal, financial or even sexual. Many seniors do not report abuse. They often feel isolated and afraid to speak out. As a result, elder abuse remains largely hidden behind closed doors.

• (1335)

Canada's new government has already taken action to reach out to the senior population to raise awareness of the existence of elder abuse and to let seniors know that help is available.

Budget 2007 announced an additional \$10 million increase to the New Horizons for Seniors program, from \$25 million to \$35 million. Some of this additional funding will be used to combat elder abuse and fraud and to invest in community programs to raise awareness.

Our government also recently established the National Seniors Council to advise the Minister of Human Resources and Social Development, the Minister of Health and myself on issues of national importance to seniors. I am very proud to be leading this council in its day-to-day activities.

As Secretary of State for Seniors, I have asked council to focus its work on two hugely important issues: first, raising awareness to combat elder abuse; and, second, providing support to low-income single senior women.

Honourable senators, we need to work together to stand up for those who have helped build this country to make it what it is today. World Elder Abuse Awareness Day offers the opportunity to change attitudes and behaviours when it comes to the abuse of older adults. I ask that all honourable senators work to help our

government reach out to seniors' communities so that we can break down the wall of silence and show Canadians that elder abuse exists, that it is not tolerated and that there is help available in our communities.

[Translation]

#### THE HONOURABLE DAN HAYS, P.C.

##### TRIBUTE

**Hon. Pierre De Bané:** Honourable senators, I rise today to pay tribute to Senator Dan Hays, who will soon be retiring.

As you all know, Senator Hays has been sitting in this chamber as a senator for Alberta for almost 23 years. During this time, Senator Hays was Deputy Leader of the Government in the Senate, Speaker of the Senate and Leader of the Opposition in the Senate.

[English]

Senator Hays was appointed as senator for Calgary, Alberta on June 29, 1984, by Prime Minister Pierre Trudeau. He followed in the footsteps of his late father, the famous Harry Hays, who had been a minister, as well as a senator, from 1966 to 1982. Together, they have developed the Hays Converter Cattle, the first registered purebred cattle to be developed in Calgary.

Dan Hays was elected by the members of my party as President of the Liberal Party of Canada.

[Translation]

In addition to his major role in the cattle breeding sector, Senator Hays had a successful career in law with the Macleod Dixon firm in Calgary.

[English]

During Senator Hays' time in the Senate, Calgary came of age. Calgary hosted the Winter Olympics in 1988 and the Calgary Flames won the Stanley Cup in 1989. The city grew tremendously and is now the fifth-largest metropolitan area in Canada.

[Translation]

In the Senate, he chaired the Standing Senate Committee on Agriculture and Forestry as well as the Standing Senate Committee on Energy, the Environment and Natural Resources, which are both extremely important to Alberta.

[English]

Most recently, Senator Hays served as Chairman of the Special Senate Committee on Senate Reform, another subject dear to the hearts of Western Canadians. He is the author of a very thoughtful research paper *Renewing the Senate of Canada: a Two-Phase Proposal*, which reviewed both the Canadian context and several Parliaments of the British parliamentary tradition.



Senator Hays has also worked hard on the international stage, particularly in fostering closer ties with Japan. When he was a child, he formed lasting friendships with Japanese Canadians who worked on his father's farm.

Senator Hays first travelled to Japan in 1970 in search of new export markets for Canadian purebred livestock. As a senator, he continued to work to improve the relationship between Canada and Japan and served as Chairman of the Canada-Japan Inter-Parliamentary Group and the Asia Pacific Parliamentary Forum. In 2000, in recognition of Senator Hays' efforts, the Emperor of Japan awarded him the Grand Cordon of the Order of the Sacred Treasure. Only two Canadians have had this honour.

As a French Canadian, I also want to pay tribute to what Senator Hays has done to master the French language. Not only has he learned to speak the language, and to speak it beautifully, but he has also travelled extensively in the province of Quebec. Last January, Prime Minister Harper appointed him as a member of the Privy Council in homage to his exceptional contribution to the political life of our country.

• (1340)

I was appointed to the Senate on the same day as Senator Hays, and it has been an honour and a privilege to serve the people of Canada alongside him. He has been a true asset to this institution.

[Translation]

I want to wish Senator Hays and his dear wife Kathy much happiness and tell them how much we have appreciated the great contribution they have made to our institution.

[English]

## NATIONAL PUBLIC SERVICE WEEK

**Hon. Donald H. Oliver:** Honourable senators, I am a strong supporter of the Public Service of Canada. Therefore, I am pleased to rise today to say a few words about this week, June 10 to 16, as being National Public Service Week.

In 1992, the Professional Institute of the Public Service of Canada proposed the idea of recognizing the contributions of federal employees throughout the Public Service of Canada to instil pride in their work and the services they provide to millions of Canadians on a daily basis. This is a opportunity to reflect on the many contributions federal employees make to Canadian society and to the quality of life that we all enjoy. It is important to honour the hard work and dedication of the women and men of the Public Service of Canada, who are some of Canada's most precious resources because they are an example of the type of leadership other Canadian organizations can model themselves on.

This year's National Public Service Week is being advertised nation-wide by airing four one-minute video clips featuring important work implemented by public servants, such as that of our international tax auditors, marine research scientists, computer system specialists and engineers.

This year, the Professional Institute of the Public Service of Canada has two events to mark this important week. The theme of this year's photo contest is, "Keeping the circle strong:

Connecting our generations!" The photo contest was open to public service employees employed by the various institutions of the federal public administration as listed in Schedules I, IV and V of the Financial Administration Act and to the Canadian Forces.

Five finalists, one for each day of the week, will be selected from a group of 25, with the day's winners appearing on the Canadian Public Service Agency's website. The five winners will receive a coffee table book entitled *Canada in a Thousand Pictures*. It is the creation of Eugene and Gretl Kedl and captures the beauty and many treasures that Canada has to offer from coast to coast.

The second event taking place this week is the coveted 2007 Public Service Award of Excellence Ceremony. This award recognizes employees who have demonstrated excellence in the achievement of results for Canadians. There are seven categories for the award and a total of 109 nominations were received this year.

Honourable senators, these events were designed to highlight a week of gratitude for public service employees and praise for the hard work that they do in making Canada a model for the world. Given our commitment to democracy, equality, diversity and our international reputation as being proactive in human rights and employment equity legislation, Canada is a leader that the rest of the world can look to for assistance and leadership.

Honourable senators, this past week in Canada was about enhancing public awareness and respect for Canadians who serve their country and who have made Canada's public service one of the most highly respected in the world.

[Translation]

## WORLD ELDER ABUSE AWARENESS DAY

**Hon. Maria Chaput:** Honourable senators, Friday, June 15 is World Elder Abuse Awareness Day. Why must we build awareness of this issue? Why must we recognize that elders are abused? Why must we acknowledge that this is the reality for many of our elders who often suffer in silence?

The board of directors of the Canadian Network for the Prevention of Elder Abuse is made up of 15 members representing Canada's provinces and territories. The network meets monthly via videoconference. It promotes the establishment of round tables in each of Canada's provinces and territories.

According to the network, elder abuse remains a serious social problem. National research shows that between four and ten per cent of Canadian seniors are victims of abuse. This means that between 165,000 and 413,000 Canadian seniors are victims of abuse or mistreatment.

The network promotes awareness activities. In 2006, 105 towns and cities in Canada held elder abuse awareness activities. I would like to thank everyone involved in building awareness of this tragic reality.

Tomorrow, Friday, June 15, let us think of and pray for elders who are abused and mistreated, often in silence. We have to talk about this and find solutions to this unacceptable problem.

• (1345)

[English]

## CONFEDERATION BRIDGE

### TENTH ANNIVERSARY

**Hon. Lowell Murray:** Honourable senators, this is a month of anniversaries. It is 10 years since the Confederation Bridge was officially opened — the long sought “fixed link” between Canada and Prince Edward Island. Although our colleagues from the Island cannot find words to express the gratitude that is in their hearts, it is a great nation-building achievement of the Mulroney government.

It was 14 years Monday that the provincial legislature, under the leadership of Premier Catherine Callbeck, unanimously approved the constitutional amendment that was necessary to relieve Canada of the obligation to provide a ferry service, which ceased operation with construction of the new link. It is almost 20 years since her predecessor, the late Premier Joseph A. Ghiz, held a plebiscite on the Island that resulted in 58 per cent approval for the project.

It will be 14 years next Sunday, June 17, since our former colleague Senator Orville Phillips introduced government Bill C-110, the Northumberland Strait Crossing Bill, which authorized the undertaking. At one point during the debate, Senator John B. Stewart of Nova Scotia questioned Senator Phillips about the possible effect of the proposed link on the lobster fishery in his area. Senator Phillips replied:

I would point out to the Honourable Senator Stewart that a lobster does not move very far from its place of origin. A lobster is very much like a Liberal. It does not move forward; it moves backwards. Consequently it does not travel very far.

**Some Hon. Senators:** Hear, hear!

**Senator Murray:** To which Senator Stewart retorted:

You may know how to eat lobsters, but you do not know much more than that about them.

Indeed, Senator Phillips may have taken some liberties with the biology, but, as always, his political observation was spot-on.

The construction and completion of the Northumberland Strait crossing — on time and on budget — was a tremendous feat of engineering and construction, a considerable achievement in federal-provincial relations and a truly historic undertaking in public-private sector collaboration. The private sector financed, built, operates and maintains the crossing. The annual federal subsidies — \$42 million in 1992 dollars — will, in the end, cost less to the treasury than continuance of the ferry service would have done.

In recalling the federal-provincial political leadership and the engineering genius that conceived and created the project, let us remember also and always the hundreds of people who actually did the work on site under sometimes challenging weather conditions and to whom we owe credit for its successful completion.

The Confederation Bridge is itself a major tourist attraction as well as a vital element in our economic infrastructure. I know it is a real benefit to Canada, and I hope and believe it is thus also to the people of Prince Edward Island.

## NATIONAL ABORIGINAL DAY

**Hon. Francis William Mahovlich:** Honourable senators, today I rise to speak about an important upcoming national day of celebration — National Aboriginal Day. First proclaimed a national day of celebration by Governor General Roméo LeBlanc in 1996, June 21 has become a day upon which Aboriginal peoples across Canada can share their pride and culture with their families, neighbours and friends. This day also marks an opportunity for all Canadians to celebrate and recognize the contributions of Aboriginal peoples to this great nation.

On June 21, events will take place across Canada, from coast to coast, to celebrate the contributions of Inuit, Metis and First Nations peoples. Some of the activities scheduled to take place will include art exhibitions, theatre and musical performances and even community feasts.

As honourable senators know, it is important to honour and celebrate the Aboriginal peoples of this nation. For many years, Aboriginal people have been treated with a lack of respect that is very disheartening.

Recently, I read a story about Kelly Morrisseau, a young Aboriginal girl, mother of three and seven months pregnant, who was brutally murdered in December of last year. A fund was created to help provide a reward for information leading to an arrest in her case. After the Assembly of First Nations doubled the amount, the total of the reward fund was a mere \$4,000. In comparison, the funds for the rewards offered for information regarding two other young Ottawa girls murdered in the last few years were \$50,000 and \$100,000. This discrepancy is simply not acceptable.

• (1350)

It is my sincere hope that on National Aboriginal Day, Canadians across this vast land will realize how much the unique culture and heritage of our Aboriginal Peoples has to offer us. Celebrations such as this will continue to enrich our country with the wonder that is the Aboriginal spirit.

[Translation]

## ROUTINE PROCEEDINGS

### CRIMINAL CODE

#### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-59, to amend the Criminal Code (unauthorized recording of a movie).

Bill read first time.



**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

[Translation]

On motion of Senator Comeau, bill placed on the Orders of the Day for second reading two days hence.

[English]

## NUNAVIK INUIT LAND CLAIMS AGREEMENT BILL

### FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-51, to give effect to the Nunavik Inuit Land Claims Agreement and to make consequential amendments to another act, to which they desire the concurrence of the Senate.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Comeau, bill placed on the Orders of the Day for second reading two days hence.

[Translation]

## CRIMINAL CODE

### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-23, to amend the Criminal Code (criminal procedure, language of the accused, sentencing and other amendments).

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Comeau, bill placed on the Orders of the Day for second reading two days hence.

• (1355)

[English]

## CANADA-EUROPE PARLIAMENTARY ASSOCIATION

### PARLIAMENTARY MISSION TO PORTUGAL AND SECOND PART OF 2007 ORDINARY SESSION OF COUNCIL OF EUROPE, APRIL 12-20, 2007— REPORT TABLED

**Hon. Lorna Milne:** Honourable senators, I have the honour to table, in both official languages, the report of the delegation of the Canada-Europe Parliamentary Association to the Parliamentary Mission to the Country that will next hold the European Union Presidency and the Second Part of the 2007 Ordinary Session of the Parliamentary Assembly of the Council of Europe held in Lisbon, Portugal and Strasbourg, France from April 12 to 20, 2007.

## QUESTION PERIOD

### NATIONAL DEFENCE

#### AFGHANISTAN—AGREEMENT FOR TREATMENT OF DETAINEES

**Hon. Céline Hervieux-Payette (Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government in the Senate.

After the government's numerous contradictory statements regarding the role of the Red Cross and the Afghanistan Independent Human Rights Commission in the supervision of the detainees, after the Prime Minister acknowledged the seriousness of the allegations of torture, but before accusing the opposition of being too soft on the Taliban, now the Red Cross confirms today that it does not play any part in the open investigations conducted by the government in Kabul, which goes against the statements made by the Canadian government, which said that the Red Cross was a part of its special agreement in Kabul.

After all the denigration and scorn, the contradictions and rebuffs, the bungling and improbabilities, can the Leader of the Government in the Senate please tell us how the government will adopt a transparent approach when it comes to prisoners of war in Afghanistan? When will this government do everything it can to ensure that Canada can once again, and finally, honour the third Geneva Convention relative to the treatment of prisoners of war?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I wish to thank the honourable senator for that question. I presume she is basing her question on news stories that appeared in *Le Devoir* today.

The International Committee of the Red Cross has a right to visit detainees at any time. This right derives from international law. The arrangement in place with the previous government has been enhanced, and it in no way creates any obligations on the part of the ICRC. The enhanced agreement simply clarifies the position and what is expected of the Government of Afghanistan. It places the onus on the Government of Afghanistan to advise Canada, the Afghanistan Independent Human Rights Commission and the International Committee of the Red Cross of any corrective action it is taking to remedy instances or alleged instances of prisoner abuse.

[Translation]

**Senator Hervieux-Payette:** The Leader of the Government in the Senate will recall that the Minister of Foreign Affairs and the Prime Minister gave their personal assurances that once a Taliban taken prisoner by the Canadian Forces in Afghanistan was turned

over to the Afghan authorities, an inspection would be conducted to determine whether that person was being treated properly under the convention.

Admittedly, we are dealing with a country that is learning about human rights and needs some guidance. That is what we expected the government to provide. It would appear that the government is offloading its obligations by trying to lay the responsibility on the Red Cross. Under the Geneva Convention, the Canadian government must enforce this obligation and ensure that, once they are taken prisoner, detainees are treated properly.

Can the Leader of the Government in the Senate tell us what documents have been signed with the Red Cross to report on this? Which independent organization other than the Afghan government is monitoring the integrity of the process? How does the Department of Foreign Affairs make sure this process is transparent? Can we have access to these agreements?

• (1400)

[English]

**Senator LeBreton:** Honourable senators, everything the honourable senator said in her question is correct. I want it to be very clear that it has been acknowledged by everyone that Canadian Forces have not been accused of and have in no way been involved in any of the alleged abuse of Taliban prisoners.

The enhanced agreement provides the Canadian government with the assurance that the Government of Afghanistan meets its obligations to the Afghanistan Independent Human Rights Commission, the Government of Canada and the International Committee of the Red Cross. This agreement in no way inhibits the abilities of the ICRC; its abilities remain the same as they have always been. The ICRC has the right, under international law, to visit detainees at any time.

The enhanced agreement, which built upon the agreement of the previous government and clarified the responsibilities of the Government of Afghanistan, in no way interferes with the International Committee of the Red Cross. As it would in the normal course of events, the ICRC has free access under international law. This enhanced agreement imposes no additional responsibilities or onus on that body.

## HEALTH

### FUNDING FOR CANADIAN HOSPICE PALLIATIVE CARE ASSOCIATION

**Hon. Marilyn Trenholme Counsell:** Honourable senators, my question is directed to the Leader of the Government in the Senate. I will be referring to the 2007 edition of the newsletter from the Canadian Hospice Palliative Care Association, written by the executive director, Sharon Baxter. In this newsletter she said that in the fiscal year 2007, the association saw its entire federal government funding cut. The entire budget is gone.

I know that the Honourable Leader of the Government in the Senate is very concerned about seniors and is the minister responsible for them. Therefore, what has she done to restore this funding for the Canadian Hospice Palliative Care Association, which is very important, especially for seniors?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I thank the senator for her question.

In Budget 2006 and Budget 2007, the government allocated significant amounts of money for seniors in a number of areas, including through the health care system.

I will have to take the question about the funding of the Canadian Hospice Palliative Care Association as notice. I will obtain an answer as soon as possible.

**Senator Trenholme Counsell:** This is the minister's area of responsibility and I would like to hear her view and hopefully a word of support for the Canadian Hospice Palliative Care Association.

In this newsletter, it is reported that, sadly, Health Canada's secretariat on these issues was retired effective March 31, 2007. That is certainly not good news for those suffering at the end of their lives, be they young or old, although most are seniors, like many of us.

There was, however, some good news. The executive director also said that much has been achieved through the past four years through the strategy and the millions of dollars invested by the federal government. That is all cut now.

• (1405)

I would like to have the minister responsible for seniors comment on the value of an organization such as the Canadian Hospice Palliative Care Association.

**Senator LeBreton:** In answer to the honourable senator's question, I believe in the new transfers to the provinces, the Canada Social Transfer and other transfers, some of the programs are funded through a different arrangement. That is why I specifically will undertake to provide a detailed answer for the honourable senator.

With regard to being supportive of groups that provide services for our seniors, whether it is in extended care or palliative care, I applaud and honour all organizations that devote their time and energies to the care of our citizens, most particularly as our citizens get older. As I said, the specific case the honourable senator raises is one for which I will obtain a response.

### PALLIATIVE CARE—PATIENT WAIT TIMES

**Hon. Hugh Segal:** Honourable senators, when making those queries, might the Leader of the Government in the Senate inquire with respect to the ultimate wait-time issue, which is palliative care? While the government has admirably discharged its commitments across Canada with respect to wait times for various surgical and other procedures, might she inquire as to the possibility of this other matter being added as a policy priority in relationship with the provinces given its importance demographically and in terms of humanity to the vast majority of our fellow citizens either because of family or other connections?



**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I certainly will. As we know from our aging population, this demographic is growing very quickly. I would be happy to add that to the question I submit to the Department of Health.

#### PALLIATIVE CARE—AUDIT OF PROVINCIAL FUNDING

**Hon. Hugh Segal:** In making that inquiry, would it be possible to ask whether the federal Department of Health could seek to audit provincial activities with respect to the refusal of many provinces to fund palliative care spaces in local hospitals and also in local non-hospital facilities set up by palliative care groups and hospice organizations? This is one of the most difficult problems facing hospice groups across Canada.

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, Senator Segal raises a valid concern. It is something he has dealt with not only at the provincial level but at the federal level. I am speaking of the guarantee that funds transferred from the federal government to the provinces are in fact used to provide the services for which they were intended. I will definitely add that question to the list.

#### FUNDING FOR END-OF-LIFE STRATEGY PROGRAM

**Hon. Sharon Carstairs:** Honourable senators, I ask the Leader of the Government in the Senate to explain to Senator Trenholme Counsell and Senator Segal how that will be possible when the funding available to Health Canada's end-of-life strategy has been less this year than it has in the last four years?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, the Honourable Senator Carstairs has raised this issue in the chamber before, as well as in the Special Senate Committee on Aging.

I believe I provided a reasonable response for the honourable senator in the past. This area of jurisdiction and delivery of health care has always been hard to manage. However, with respect to the honourable senator's specific question, I will again seek to obtain a response as to exactly how much funding has been earmarked for palliative care and under which programs that funding presently exists.

#### VETERANS AFFAIRS

##### VETERANS INDEPENDENCE PROGRAM— COMMENTS OF PRIME MINISTER AND MINISTER—REPRESENTATIONS OF MS. JOYCE CARTER

**Hon. Lorna Milne:** Honourable senators will be surprised to learn that I want to congratulate the government for standing by its commitment — wait for it.

**Senator Comeau:** We have a real zinger coming.

• (1410)

**Senator Milne:** I am congratulating the government for standing by its commitment to extend Veterans Independence Program services to widows of all Second World War and Korean War veterans.

How difficult it must have been for the leader of this government to admit he was wrong; to swallow his pride and recommit himself to a promise that he and the Conservative Party made in 2005 to Ms. Joyce Carter, party supporters and all Canadians.

Honourable senators, Jane Taber describes Joyce Carter as 80 years old, five feet tall, diabetic and afraid to fly. Yesterday Ms. Carter, after flying from Nova Scotia to Ottawa, lectured the Prime Minister for 13 minutes on the importance of keeping his promise. He then apparently said that in the next budget he would extend the program to the widows of all Second World War and Korean War veterans.

My question for the Leader of the Government in the Senate is simple: Is this what it takes for this government to live up to its promises? Does an 80-year-old woman have to stand face-to-face with the Prime Minister until he admits he made a mistake in not fulfilling a commitment he made to her in writing? If so, honourable senators, expect busloads of seniors to arrive any day now to speak to the Prime Minister on the income trust issue.

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I saw this event on television last night. You people really must get a new playbook.

**Some Hon. Senators:** Oh, oh.

**Senator LeBreton:** On this idea of people coming to Ottawa, I remember a previous occasion in the person of Solange Denis over the indexing of pensions.

The fact is we were elected in January 2006 and sworn in on February 6, 2006. We made many written commitments in our platform. We have been here one year and three months and within the mandate of government, we have four years to go.

In terms of the Veterans Independence Program, as Minister Thompson said last night, we will honour our commitments to veterans. As I answered in response to Senator Calbeck last week, Veterans Affairs is conducting a comprehensive review of its health care programs and services to veterans, which Minister Thompson initiated last year. The minister wants to get it right this time as many of the programs had experienced massive cuts in the past. There Minister Thompson has made it clear that he does not want to do anything piecemeal.

We will get the Veterans Independence Program right the first time, and that is why we are taking some time. We have added 12,200 clients to the program in the past year and we have increased our spending on veterans by \$523 million a year over the allocation in the previous government's last budget.

This fine woman has said that she has received her money. When discussing this incident this morning, I said that she is lucky she did not encounter the former Prime Minister because he probably would have strangled her.

**Senator Milne:** I guess I want to thank the Leader of the Government in the Senate for her answer, although it seems to me that it is slightly disrespectful to refer to honourable senators as "you people."

I would also like to know if Ms. Carter will be receiving a formal apology from the Minister of Veterans Affairs after he publicly denied the authenticity of a letter signed by the Prime Minister to Ms. Carter committing the Conservative Party to the extension of the Veterans Independence Program in June 2005.

During testimony to the House of Commons Standing Committee on Veterans Affairs, the Minister of Veterans Affairs denied the fact that the Prime Minister signed the letter and further argued that he had not written it. Furthermore, the minister has been quoted in the media as saying extending the VIP program is a "silly promise."

• (1415)

With a minister who appears unwilling to commit himself to fulfilling the promises made by his leader, how can Canadians really believe this change will truly happen? Will my honourable friend, as Leader of the Government in the Senate and because she is Secretary of State for Seniors, commit herself to assuring that this promise is kept by her government.

**Senator LeBreton:** I thank the honourable senator for the lecture. I said "you people" because I was referring to the Liberal Party and Liberal MP Dan McTeague who staged all of this, just like Mr. Boudria did with Solange Denis in her infamous "goodbye Charlie Brown" comment, and then subsequently had Paul Martin and Jean Chrétien go to her birthday party. That is why I said that you have to get a new play book.

If the honourable senator checks the record, and veterans' organizations would support this, no government — certainly not the previous one — has committed itself and done more for our veterans and for our military than the current one. The VIP program has been in the works for some time. Minister Thompson — is going through a review in the proper way, supported by veterans groups. I feel very confident that not only are veterans better off now, but they will continue to be better off under this government, just as senior citizens are under my new watch as Secretary of State for Seniors.

**Hon. Yoine Goldstein:** Since the Leader of the Government in the Senate has mentioned a need for a new play book, can we borrow her committee play book?

**Senator LeBreton:** I do not have a committee play book.

## NATIONAL DEFENCE

### AFGHANISTAN—STATUS OF WAR

**Hon. Pana Merchant:** Honourable senators, my question is to the Leader of the Government in the Senate. Will the minister provide to me, and other honourable senators who may be interested, the PCO documents provided to Jeff Esau pursuant to an access to information request as reported on the front page of *The Globe and Mail* this morning?

These briefing notes prepared for Gregory Fyffe are extensive. Since the government has not asserted Crown privilege in that they were released under an access to information request, will the

minister accommodate me and others interested by obtaining and providing these documents on an early and timely basis?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for her question. I assume she is referring to the documents with regard to the situation in Afghanistan. I will take her question as notice, refer it to the proper authorities in the Privy Council Office and get back to her with a delayed answer.

## FINANCE

### SASKATCHEWAN—EQUALIZATION PAYMENTS

**Hon. Robert W. Peterson:** Honourable senators, my question is to the Leader of the Government in the Senate. Following the vote on the budget yesterday, the headline in the *Saskatoon StarPhoenix* said it all: "Betrayed." The 12 Conservative MPs from Saskatchewan all voted against their province by supporting the budget which limits the resource revenue Saskatchewan will receive by placing a cap on the amount. This was done contrary to a letter signed by the now Prime Minister Stephen Harper prior to the 2006 election that unequivocally stated that 100 per cent of non-renewable resource revenues would be excluded in determining the equalization calculation. This means that Saskatchewan will be losing out on more than \$878 million per year if no cap existed.

These are the same 12 MPs who after the budget came out in 2006 wrote to the Prime Minister indicating they would have a difficult time getting re-elected if that promise was not corrected. One of the 12 in a prior interview even acknowledged that, "Yes, if we made that promise, we should keep it."

Why is it that when it is convenient for the government, such as dismantling the Canadian Wheat Board, they rationalize it by saying they were elected to do this and are therefore responding to the wishes of the people? Why, then, when dealing with equalization and a promise made to the people of Saskatchewan and acknowledged by the government's own MPs, does it elect to turn its back on them?

There is only one word to explain it: Betrayed.

• (1420)

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for his question.

I find it rather amusing that the Government of Saskatchewan, an NDP government, would be shunning the fact that they are now a "have" province instead of a "have not" province.

The most interesting aspect of all of this is that Saskatchewan is the biggest winner in the budget vis-à-vis equalization. Since I am on my feet, I will address this matter further.

Our government committed to bringing in a new equalization formula that would be based on clear principles and treat everyone equally. We accepted in large measure the recommendations of the O'Brien commission, a commission that was set up by the previous government and which



reported. We have delivered for the people of the province of Saskatchewan, including our commitment to have a full exclusion of natural resources.

Budget 2007 is a great budget for the people of Saskatchewan. We delivered \$878 million in new money for the province, the largest per capita gains of any province under the fiscal balance package. Under our budget, Saskatchewan will receive a record total of \$1.4 billion in federal funding. There is \$878 million in new funding, as I have said. Saskatchewan farm families will receive \$250 million; \$92 million in tax relief for Saskatchewan taxpayers; \$75 million for infrastructure, which everyone knows is one of the big, unsung "heroes" of the budget; \$180 million is available for the Iogen biofuels project in Saskatchewan; and there is \$10 million for the police research centre.

I fail to understand how anyone can argue that Saskatchewan is not being fully supported and has not been a big winner in the budget of 2007.

**Senator Peterson:** A promise was made to the people of Saskatchewan and a promise was broken. Does the Leader of the Government in the Senate concur?

**Senator LeBreton:** Actually, promises were not broken. I do understand the province of Saskatchewan. As a matter of fact, my first years in the Conservative Party were spent traipsing all over Saskatchewan with the Right Honourable George Diefenbaker and the Right Honourable Alvin Hamilton.

**Hon. Pana Merchant:** Governments speak through the agreements that they sign and the commitments that are given by their political leaders. We in Saskatchewan really do feel betrayed. We do not need to hear about what the government is giving to Saskatchewan. We are questioning why the Prime Minister and the members in Saskatchewan are breaking their promises to us.

**Senator LeBreton:** I think the honourable senator is misinformed. I would ask her to produce a signed document or signed accord.

The fact is that Saskatchewan is now a "have" province. Through the O'Brien commission, which was commissioned by the previous government, a formula was put in place to resolve the equalization issue from year to year.

Saskatchewan is the biggest winner in the budget. Certainly, this government has done more for Saskatchewan in one and a half years than the previous government, especially Ralph Goodale, has done in 13 years.

[Translation]

## HUMAN RESOURCES AND SOCIAL DEVELOPMENT

### CONFERENCE BOARD OF CANADA— ANNUAL REPORT—INNOVATION

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** My question is for the Leader of the Government in the Senate. This week, the Conference Board of Canada released its annual report,

which is very critical of Canada's performance in a number of areas. According to today's issue of *Le Devoir*:

A harsh report by the Conference Board of Canada says that Canada's failure to innovate in several socio-economic areas is gradually turning the country into a land of mediocrity.

Canada receives two "D" grades, in innovation and the environment.

Can the Leader of the Government in the Senate tell us what the government, after 16 months in power, plans to do to stimulate innovation, increase productivity and help Canada catch up to other countries in terms of competitiveness?

• (1425)

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for the question. I read the report of the Conference Board of Canada because I am interested in the various studies, no matter where they are from. The honourable senator asked what the government will do in terms of increasing Canada's grade. Canada received good grades in some areas and not good grades in other areas; it depends how much faith individual Canadians put in reports of the various study groups. The government has acted on the issue of productivity and competitiveness. A substantive document was released last fall by the Minister of Finance entitled, "Advantage Canada." I would be happy to provide the honourable senator with a copy.

On the issue of the environment, as Senator Segal pointed out, Canada is faced with a situation that is well known. I am pleased to say that the plans announced for the environment now have the legitimacy of the European Union and the G8. The government has begun to implement some plans in Advantage Canada and regulations are being written in regard to the environment. All Canadians are becoming involved in the importance of clean air, clean water and reducing greenhouse gases such that the report card will be much better next year.

## THE SENATE

### TRIBUTE TO DEPARTING PAGES

**The Hon. the Speaker:** Honourable senators, before proceeding to Orders of the Day, let us say farewell to two of our departing pages. Joseph-Daniel Law, from Tecumseh, Ontario, is honoured to have served as a page these past two years. He will graduate this year with an honours degree in political science and a minor in criminology from the University of Ottawa. He intends to pursue his master's degree abroad, specializing in either international relations or diplomatic studies. He hopes to join the foreign service after his education.

After one year with us in the Senate Page Program, Colleen Leminski, from Ottawa, will graduate this fall with an honours degree in Psychology from the University of Ottawa. She plans to pursue graduate studies and wishes to thank all honourable senators, staff and fellow pages for making this past year one that she will cherish.

[ Senator LeBreton ]

## OLYMPIC AND PARALYMPIC MARKS BILL

## FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-47, respecting the protection of marks related to the Olympic Games and the Paralympic Games and protection against certain misleading business associations and making a related amendment to the Trademarks Act.

Bill read first time.

**The Hon. the Speaker:** When shall this bill be read the second time?

On motion of Senator Comeau, bill placed on the Orders of the Day for second reading two days hence.

[Translation]

## ORDERS OF THE DAY

CANADA ELECTIONS ACT  
PUBLIC SERVICE EMPLOYMENT ACT

## BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Nolin, seconded by the Honourable Senator Stratton, for the third reading of Bill C-31, to amend the Canada Elections Act and the Public Service Employment Act, as amended;

And on the motion in amendment of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Robichaud, P.C., that Bill C-31, as amended, be not now read a third time but that it be amended,

(a) on page 15, by adding after line 30 the following:

**“37.1 Subsection 487(1) of the Act is replaced by the following:**

**487. (1)** Every person is guilty of an offence who contravenes

(a) paragraph 111(b) or (c) (applying improperly to be included on list of electors); or

(b) paragraph 111(f) (unauthorized use of personal information contained in list of electors).”;

(b) on page 16, by adding after line 29 the following:

**“39.1 (1) Subsection 500(2) of the Act is replaced by the following:**

(2) Every person who is guilty of an offence under any of subsection 485(1), paragraph 487(1)(a), subsections 488(1), 489(2) and 491(2), section 493 and subsection 495(2) is liable on summary conviction to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or to both.

**(2) Section 500 of the Act is amended by adding the following after subsection (3):**

(3.1) Every person who is guilty of an offence under paragraph 487(1)(b) is liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both.”.

**Hon. Pierre Claude Nolin:** Honourable senators, on the motion in amendment of Senator Joyal, after customary consultations, the government has asked me to inform you that it accepts, with enthusiasm, the amendment proposed by Senator Joyal, and will act accordingly.

• (1430)

**The Hon. the Speaker:** Are honourable senators ready for the question?

[English]

**Hon. George Baker:** No, Your Honour.

Honourable senators, I want to put on the record very briefly the fact that the government side and other honourable senators in this house cooperated fully to try to improve this bill as much as possible. Members of the Standing Senate Committee on Legal and Constitutional Affairs deserve everyone's congratulations for stopping the potential of putting people at risk for identity theft — which was contained in this proposed legislation when the Senate received it — and permitting telemarketers to prey on senior citizens.

Without the Senate, in this particular instance, we would have had a bill that would have been a disaster. The Senate amends about 12 per cent of the legislation referred to it by the House. This is one instance where the Senate has come forward to make amendments to a bill that should never have passed the House of Commons in the form that it was in.

Fellow senators, the explanation given by the government for this bill was that it was being supported by the government “in the spirit of cooperation.” That is, it was passed with some unanimity in the other place, and it was the creation of a House of Commons committee of elected politicians. The bill was a reflection of that fact — that elected politicians had created the bill and wished it to be passed without consideration of its faults, and there were many faults.

What we have left is a bill, honourable senators, that is not yet acceptable, yet it is certainly better than it was when the Senate received it. However, there will be some fallout. I am voting for the bill because I happen to be of the principle that it would be a rare occasion that I would vote against a measure passed by the House of Commons. I have always felt that way about the Senate, but every rule has its exception.

**Some Hon. Senators:** Hear, hear.



**Senator Di Nino:** Tell us more!

**Senator Baker:** One should never quarrel with the trier of fact, except in extraordinary circumstances where perhaps the measure would run counter to the conscience of our community. There are instances such as that, of course, that we do have. In the case of this bill, as Senator Nolin and other senators have pointed out, it is a huge change in what we have been doing in Canada as far as our elections are concerned.

Senator Joyal pointed out that the Chief Electoral Officer said they investigated 11,000 registrants on the day of the election in Trinity—Spadina in the last election campaign. There were 11,000 people who came in and registered for the first time. The Liberals and the Conservatives cried foul and said, “Well, there has to be some fraud there.”

**An Hon. Senator:** There was.

**Senator Baker:** Just a second now, honourable senators. I will get to the facts after I deal with the alleged facts

**Senator Di Nino:** He is just getting warmed up. Leave him alone.

**Senator Baker:** The Chief Electoral Officer went out and explained to the committee that his investigation was thorough. In other words, he gave resources to this thorough investigation of these 11,000 people who registered on election day. As Senator Joyal pointed out a minute ago, the Chief Electoral Officer said that all of them — except one, perhaps — had a right to vote. All of them except one. They are not sure whether or not that one had a right to vote because that person is presently outside of the country. However, they could verify that all except one had a right to vote.

The Chief Electoral Officer then said, in further evidence that that office had investigated all of the complaints sent to them. They have not found fraud.

What shocked me even more was the evidence of the Privacy Commissioner, who said that she had examined all of the evidence before the House of Commons standing committee that recommended this bill that we stop fraud, and she came to the conclusion that there was not one shred of evidence that there was fraud before the House of Commons committee.

That is the Privacy Commissioner, so what does one do? Does one say that the Privacy Commissioner does not know what she is talking about; the Chief Electoral Officer does not know what he is talking about; and you deal with the reality of rumour, of supposition, of alleged actions? The evidence is not there.

The unfortunate part, honourable senators, is that the Chief Electoral Officer and his staff were questioned on what will now happen in the next election, with the passage of this bill, to those 11,000 people who had a right to vote in Trinity—Spadina. What will happen to them? Will they be allowed to vote?

**Senator Segal:** Of course.

**Senator LeBreton:** If they are on the voters' list.

**Senator Baker:** We had a thorough discussion, and only one person who is registered to vote in each voting station can vouch for someone else.

**Senator Stratton:** To avoid the busload.

**Senator Baker:** We hear many opinions across the way, honourable senators, but the Chief Electoral Officer, in his answer to the committee, said that he did not know how many. It was then put to him: What about three quarters? “Well, perhaps not.” What about one half? “I do not know.”

The amount of one half would equal 5,500 Canadians who would not be allowed to vote under these new regulations, even though they have a right to vote.

Then we heard evidence of people on social assistance. Think for a moment, honourable senators, about someone in those circumstances. Suppose there are four or five people in a home; maybe one of them has a driver's licence, maybe none of them has a driver's licence. A voter must have government-approved picture ID. What do the people do? There may be a father and a mother and maybe two or three children of voting age.

**Senator Segal:** There is the health card.

**Senator Baker:** They are on the voters' list.

**Senator Oliver:** Statutory declaration.

**Senator Baker:** Only one person can vouch for another person in that polling booth. What happens to the students? What happens to the transient population? What happens to Aunt Suzy who has never driven in her life, whose picture is not on her MCP card?

**Senator LeBreton:** She has a health card.

**Senator Baker:** She may not pay the light or plumbing bill in her house. What does she do?

**Senator Di Nino:** Oh, she is avoiding it.

**An Hon. Senator:** Where does she live?

**Senator Baker:** What does someone do who comes into a polling booth and has forgotten their identification?

**Senator LeBreton:** Go home and get it!

**Senator Baker:** If they have to go way back there and get it, do you really think they will go back?

**Senator LeBreton:** For heaven's sake, you cannot limit that.

**Senator Baker:** With all of these objections from the government members, I will remind the honourable senators that the minister who appeared before the committee blamed all of this on the Liberals and the Bloc.

The minister said, “Oh, we will do it in the spirit of cooperation.”

• (1440)

Honourable senators, there is no doubt that the committee has done a terrific job in making this bill more acceptable to the people of Canada.

On the question of whether the people of Canada would consider it intrusive or unacceptable to be asked for photo ID, I think most people would conclude that such a demand is not exceptional, it is not extraordinary. Canadians must present photo ID at airports and other institutions and perhaps Canadians will accept this new form of identification as just another formality associated with voting.

In conclusion, honourable senators, the Senate committee did a marvellous job, but perhaps we should visit this issue again to study its affect on the voting population.

[Translation]

**Hon. Pierrette Ringuette:** Honourable senators, I have attended many sessions of the Standing Committee on Legal and Constitutional Affairs on this bill for the simple reason that I partially disagree with giving Elections Canada preferred status as an employer for their part-time positions.

Not so long ago, the Commissioner of Elections asked Parliament for money and person-years in order to establish a permanent register of electors, citing difficulties recruiting people to go door to door before every election. For many years we have been hearing endless horror stories about this permanent list. It seems that the problem has never been resolved and today, we want to add requirements to this list of electors.

I would also like to talk about the amendment to the bill that would give Elections Canada the ability to have part-time employees for a period of 165 days of work per calendar year. Honourable senators, 165 days is 33 weeks per calendar year and I think that no longer constitutes part-time work.

Two years ago, when Jean-Pierre Kingsley, Chief Electoral Officer at the time, asked for 165 days of work per calendar year, the House of Commons committee agreed on a maximum of 125 days. The bill eventually died on the Order Paper as a result of the election, but there was nonetheless consensus on 125 days, which was increase over 1990 figures.

I have a real problem with this for two reasons: first, if an employee is needed 33 weeks in a calendar year for operations, then it seems to me that permanent positions should be considered. These part-time employees do not get benefits or a pension and yet they are deemed necessary. Second, in 37 elections there has never been a complaint that 90 days per calendar year were insufficient.

We are in the process of giving Elections Canada a special privilege and we risk setting a precedent for part-time employees in the federal public service and Crown corporations. This goes well beyond a simple amendment. I wholeheartedly disagree with this amendment. We must not create a separate class of employees. We have given Elections Canada the funding and

tools needed to create a permanent list of electors. In my opinion, this has not been successful and now they are saying that part-time employees are not enough.

For all these reasons I will be voting against the amendment and against the bill.

[English]

**Hon. Larry W. Campbell:** Honourable senators, this may be a small point, but it is one to remember. If there is a need for evidence as to why we need CPAC in this chamber, I believe that Senator Baker's oration has given it to us. Further, I would ask that Senator Baker supply the Leader of the Government with the location of Aunt Suzie because I would like to ensure that, as a senior citizen, she does have power, light and some sort of identification.

**The Hon. the Speaker:** Honourable senators, is there further debate?

Are honourable senators ready for the question?

**Some Hon. Senators:** Question!

**The Hon. the Speaker:** Honourable senators, is the amendment moved by the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Robichaud, P.C., that Bill C-31, as amended, be not now read a third time but that it be amended,

(a) on page 15 by adding after —

**Some Hon. Senators:** Dispense.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

Motion in amendment adopted, on division.

**The Hon. the Speaker:** The question is now on the main motion.

Are honourable senators ready for the question on the main motion?

**Some Hon. Senators:** Question!

**The Hon. the Speaker:** It was moved by the Honourable Senator Nolin, seconded by the Honourable Senator Stratton, that this bill, as amended, be read the third time.

Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Yes.

**Senator Ringuette:** On division.

Motion agreed to and bill, as amended, read third time and passed, on division.



## SALES TAX AMENDMENTS BILL, 2006

## THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Meighen, seconded by the Honourable Senator Keon, for the third reading of Bill C-40, to amend the Excise Tax Act, the Excise Act, 2001 and the Air Travellers Security Charge Act and to make related amendments to other Acts.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

## APPROPRIATION BILL NO. 2, 2007-08

## SECOND READING—DEBATE ADJOURNED

**Hon. Nancy Ruth** moved second reading of Bill C-60, for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2008.

She said: Honourable senators, the government wants our permission to spend money. Bill C-60, Appropriation Act No. 2, 2007-08, provides for the release of the balance of the supply sought through this year's Main Estimates, which were tabled in the Senate on February 27.

The government submits estimates to Parliament each year in support of its request for authority to spend public funds. The Main Estimates provide information on both budgetary and non-budgetary spending authorities in support of the government's request for supply. Parliament then considers appropriation bills to authorize spending not previously approved through existing statutes. The Main Estimates also inform Parliament about the cost of statutory spending. These are the items that Parliament has previously authorized.

• (1450)

This year's Main Estimates total \$211.7 billion of expenditures, including \$210.3 billion in budgetary spending and \$1.4 billion in non-budgetary expenditures for loans and investments. The Estimates were discussed in some detail with the President of the Treasury Board and Treasury Board Secretariat officials in their appearance before the Standing Senate Committee on National Finance on March 20, 2007. At that time, members of the Standing Senate Committee on National Finance were able to ask several questions pertaining both to the estimates and to the human resource and financial management issues. As honourable senators are aware, the estimates remain before the Finance Committee even after we have voted supply, allowing us to conduct more in-depth reviews, such as this spring's review of

issues relating to the vertical and horizontal fiscal balances among the various orders of governments.

This year's budgetary expenditures of \$210 billion include the costs of servicing the public debt; operating and capital expenditures; transfer payments to other levels of government, organizations or individuals; and, payments to Crown corporations.

These budgetary Main Estimates support the government's request for Parliament's authority for \$75 billion in budgetary spending under program authorities that require Parliament's annual approval for spending limits.

The remaining \$135 billion represents statutory spending, such as elderly benefits, and employment insurance, and these forecasts of statutory spending are provided for information purposes only.

The term "non-budgetary expenditures" refers to those outlays that affect the composition of the government's financial assets, such as loans, investments and advances. This year's non-budgetary expenditures total just under \$1.4 billion. They include both voted non-budgetary spending authorities, amounting to just under \$100 million, and \$1.3 billion of statutory items that are already approved by Parliament through separate legislation.

The total of voted or appropriated items in this year's Main Estimates is \$75 billion, and, of this amount, authority to spend \$22 billion was provided through Bill C-50, the interim supply bill. The balance of \$53 billion is now being sought through Bill C-60.

Honourable senators, should you require additional information, I would be pleased to try to provide it.

**The Hon. the Speaker *pro tempore*:** Continuing debate?

On motion of Senator Tardif, debate adjourned.

## BUDGET IMPLEMENTATION BILL, 2007

## SECOND READING—DEBATE ADJOURNED

**Hon. W. David Angus** moved second reading of Bill C-52, to implement certain provisions of the budget tabled in Parliament on March 19, 2007.

He said: Honourable senators, I am pleased and proud to be in a position today to propose second reading of Bill C-52, the proposed budget implementation act 2007, designed to implement many of the key provisions of Budget 2007, which was presented in Parliament by Minister of Finance Jim Flaherty on March 19, 2007.

This was a key step forward with the government's long-term economic plan, "Advantage Canada," and sets Canada on a path to secure a strong future. The bill passed comfortably, 158 to 103 in the House of Commons on Tuesday evening, honourable senators. After the vote, I was pleased to note the unequivocal declaration of Liberal leader Stéphane Dion to the effect that this is a House of Commons money bill, a matter of confidence. He declared publicly on Tuesday night, and I quote from today's

CP wire story and as reported in various newspapers across the nation, including in the Maritime provinces, in the *Halifax Daily News*, in particular.

... senators have no choice but to accept the bill. "It is even the law," Dion said of the Senate's responsibility not to block budget bills.

He pointed out that Bill C-52 has now been passed in the House of Commons. "In accordance with our established custom and tradition," he said, "this bill will not be blocked, amended or voted down by the Liberal majority in the Senate." I have to say, honourable senators, I am delighted to have heard that from your leader.

It thus remains for us, honourable senators, to review the bill appropriately and to pass it expeditiously so we can all get on with our individual plans.

This, of course, will make the vast majority of Canadians very happy because passage of the bill by June 30 will enable more than \$4 billion in 2006-07 year-end tax relief and program funding to be saved and effective, and all of the following tax and non-tax measures will take effect: lower taxes for families through the new \$2,000 child tax credit; tax relief through an increase to the capital gains exemption; improved financial security for seniors through an increase in the age limit for contributing to registered pension plans and RRSPPs from 69 to 71; \$1.5 billion in clean air funding to assist provinces with projects that reduce greenhouse gas emissions and air pollution; \$225 million in new funding for the Nature Conservancy of Canada to preserve and protect environmentally sensitive lands across our great country; \$30 million to protect British Columbia's Great Bear Rainforest; more than \$1 billion in health care funding to help provinces reduce patient waiting times and improve the delivery of health services; \$614 million in funding for provincial, federal infrastructure products and labour market training; \$30 million in funding for the Rick Hansen Foundation's Spinal Cord Injury Translational Research Network to improve the lives of the more than 40,000 Canadians with permanent spinal cord injuries; and, \$135 million in new aid to help the people of Afghanistan rebuild their lives and their country.

Honourable senators, if we unduly delay this bill, there is a serious risk that this list of significant benefits for Canadians may be lost. As well, it could turn out to be a long, hot summer for all of us in this place.

**Senator Cools:** Oh, boy!

**Senator Angus:** Honourable senators, I realize a storm of controversy has in recent weeks flared up around Budget 2007 —

**Senator Cools:** Drama.

**Senator Angus:** — and Bill C-52 in particular. I refer, of course, to the new equalization formula and the Atlantic accord issues. I wish to address this matter right up front, honourable senators, because it is based on flawed rationale and deliberately misleading rhetoric designed to stir up controversy.

With all due respect, honourable senators, I earnestly believe this brouhaha is a contrived one, based on crass political opportunism by Premiers Williams, MacDonald and Calvert of Newfoundland and Labrador, Nova Scotia and Saskatchewan,

particularly the former. Premier Williams seems to think he can bully and badger Prime Minister Stephen Harper and his government in the same way he did the Liberal government of Paul Martin, using spurious tactics once again, such as refusing to fly the wonderful Canadian flag in the legislature at St. John's. Reducing an evident and troublesome fiscal imbalance in Canada as between the have and have-not provinces was and remains, honourable senators, a key cornerstone of the Harper government's policy program.

Happily for all Canadians, the exceptionally strong Canadian economy and the issuance of the thoughtful, creative and effective Al O'Brien report happened contemporaneously, enabling the new government to introduce an ingenious new equalization formula and go a long way toward satisfactorily adjusting said fiscal imbalance in Budget 2007 and through Bill C-52.

• (1500)

Now, honourable senators, these matters of equalization formula and special regional economic deals and accords are very complex indeed and difficult to understand. I am confident that you, like me, have found this to be the case. For that reason, when I was approached to sponsor Bill C-52, I asked my staff to prepare for me a clear, concise explanatory note on the subject, and I made similar requests to Finance Canada and to Minister Flaherty's office.

Despite the very best efforts of these sources, I remained quite uncertain and unsure about the precise workings of the equalization formulae, new and old, and their inter-relationships with the various regional accords, and especially the Atlantic accord, the Paul Martin version, which seemed to ruffle Premier Danny Williams' feathers to such a high degree.

Honourable senators, I know, respect and admire both Premier Danny Williams and Minister Jim Flaherty on a personal basis. They are both astute, bright and intelligent men. I personally found it hard to believe that they could have such diverse and conflicting understandings of the same documents and materials. The stuff just does not add up or make sense to me. Someone must be gilding the lily big time, I thought to myself.

My chief of staff tried to explain it this way: Ottawa, he said, is the father, and Newfoundland and Nova Scotia are the sons.

**Senator Cools:** No daughters?

**Senator Angus:** The father promised to pay his sons' university education at a top-scale university. Maybe one was a son and one was a daughter. The children won millions of dollars in the lottery. The father said to his children, "Well, I do not believe you need the money from me anymore. The situation has changed. However, if I am wrong, I will still help you out with your university fees." "No way," said the children. "You promised us. We still insist you pay us in full."

Oversimplified? Yes.

**Senator Cools:** Extremely.



**Senator Angus:** Off point? Maybe; probably. Instructive? You better believe it, honourable senators.

I still remained unsure of my misunderstandings of the issues. Suddenly, yesterday morning at 7 a.m., whilst returning to Ottawa from my native Montreal, it became clear to me as I read the lead editorial in the *Montreal Gazette*, Senator Fraser's and my favourite journal. I quote:

Atlantic Premiers Are Out Of Line

"We have lived partly on your handouts for many years but now we have struck it rich. So you'd better keep the handouts coming, or else."

That is, in effect, what some Atlantic politicians are now saying. It's not a very creditable position. Premiers Danny Williams of Newfoundland and Labrador and Rodney MacDonald of Nova Scotia are incensed about the federal budget's solution to a long-festering dispute over sharing the Canadian wealth. They are ranting that Prime Minister Stephen Harper and Finance Minister Jim Flaherty have broken a promise made by Paul Martin's government.

The promise was utterly foolish except at the level of buying votes, but that doesn't matter. What does matter is that the two blustering premiers are now the ones playing cheap politics.

A belligerent Harper challenged MacDonald to take him to court. MacDonald backed right down, saying "the most important court is the court of public opinion."

Wrong, premier. The most important arena for settling matters of fairness is the arena of logic and fact. And on that basis, Ottawa's position doesn't look bad at all.

The details of equalization, offshore non-renewal energy resource royalties, clawbacks, provincial revenue formula calculations, offset payments, and all the rest of it, are paralyzingly dull. We'll spare you the details —

— and it refers us to a website.

The bottom line of the federal proposal is a win-win situation for the provinces in question: They can choose to retain the 2005 deal or a new option, less lucrative from resource royalties but sweeter in other aspects of equalization. Instead, though, they want all the resource royalty revenue and more generous equalization. Absurdly, the provinces' premiers are saying their governments should end up with more money to spend, per capita, than the so-called "rich" provinces whose taxpayers are net losers from equalization.

Perhaps Williams and MacDonald don't realize it, but the budget changes to equalization solve a knotty problem that is important to the whole country, not merely to two small provinces. Nor did Ottawa act arbitrarily: The federal plan is based closely on the proposals of an expert panel set up by the Liberal government in 2005, headed by Al O'Brien, a retired Alberta civil servant, and which includes prominent experts from every region. This "O'Brien report" —

— again, a website is cited —

— elegantly compromises on issues that had arisen from the slapdash bargains, jury-rigging and political horsetrading of equalization over the years. The O'Brien proposals, as enacted in Flaherty's budget, should rationalize and stabilize equalization, in an equitable way, for years and years to come.

The generosity of the way Flaherty has proceeded, making sure offshore oil provinces lose nothing, is made possible by Ottawa's fat surpluses. Sweeping action of this kind, now, is absolutely the right move at the right time. The premiers who want their fair share, and then some, should recognize a reasonable deal when they see one.

**An Hon. Senator:** Go *Gazette*!

**An Hon. Senator:** Senator Fraser wrote that?

**Senator Cowan:** Even Danny might agree with you.

**Senator Angus:** As for other less high profile aspects of Budget 2007 and Bill C-52, please note, honourable senators, that Budget 2007 supports Canadian families through tax reductions and investment in their children's future. It supports large and small businesses and helps them to grow. It supports communities through historically generous infrastructure investments and measures to help address climate change and improve the quality of Canadians' air and water. Put simply, Budget 2007 will help to build a better Canada, a Canada that works better and improves our quality of life. Do we want to put these benefits in jeopardy?

**Some Hon. Senators:** No.

**Senator Angus:** I do not think so, honourable senators.

The fact is, honourable senators, it is time for Canada to once again take its rightful place on the world stage, to become the Canada we all desire and once knew, a place where individuals and families can realize their dreams and live in prosperity and peace — a stronger, safer and better Canada. To achieve those ends, our government has acted constructively, decisively and has followed clear principles in Budget 2007. That is what building a stronger, safer and better Canada is all about.

This sounds like some of those fundraising letters that used to be written.

The measures contained in this bill reflect the priorities of Canada's government, or should I say Canada's "nouveau gouvernement." More than that, they reflect good, solid, old Canadian values and principles.

Honourable senators, please let me take a few moments to illustrate. I will start with tax relief, because Stephen Harper's government has said all along that Canadians, all of us, pay far too much tax. The measures proposed in Bill C-52 build on the tax relief framework laid out last year in Budget 2006 by providing a wide range of tax measures designed to help Canadian families get ahead and stay ahead.

Let us look first at the new working families tax plan. This plan will help parents to be better off financially. It will benefit over 3 million taxpayers, removing 230,000 low-income Canadians from the tax rolls. More than 75 per cent of the tax relief will go to those with annual incomes below \$75,000, and this is not an NDP government, honourable senators.

• (1510)

This government understands that no two Canadian families are exactly alike and that raising children involves significant additional expenses. In order to help young families, Budget 2007 includes in its working families tax plan a new \$2,000 child tax credit.

This new credit will provide up to \$310 of tax relief for each child under 18. It is important to note that of the more than 3 million Canadian families that will benefit from this plan, more than 90 per cent of them will receive maximum relief. Moreover, almost 180,000 taxpayers will be removed from the tax rolls as a direct result of this measure. Another component of the working families tax plan is the proposed increase in the spousal amount.

Honourable senators, Mr. Flaherty's budget speech emphasized the need for genuine fairness in our tax system and this is now a fundamental policy of this government. What about fairness for single-earner families?

Before this budget, couples in which one spouse chose to contribute to the household or community through unpaid work were provided with a lower amount of tax recognition in the form of the spousal deduction than a two-earner couple, in which each spouse could claim a basic personal amount.

This difference was due to the fact that the spousal amount was less than the basic personal amount — \$7,581 compared to \$8,929 in 2007. Bill C-52 proposes to end this inequity for one-earner families by increasing the spousal amount to the same level as the basic personal amount. This measure will provide one-earner families with the same tax relief as that already provided through the basic personal amount to two-earner families.

Canada's government is also committed to helping parents save for their children's post-secondary education through such vehicles as Registered Education Savings Plans, RESPs, and the Canada Education Savings Grant, CESG. Bill C-52 reflects that commitment by proposing changes that will provide additional flexibility and encourage greater savings for families.

Specifically, Bill C-52 proposes to eliminate the \$4,000 limit on annual RESP contributions. It also increases by \$8,000 the lifetime limit on RESP contributions, for the first time since 1996, raising it to \$50,000 from \$42,000.

Furthermore, Bill C-52 increases the maximum annual amount of CESG that can be paid in any year to \$500 from \$400, and to \$1,000 from \$800 if there is unused grant room from low contributions made in previous years. This will help families reach the lifetime CESG limit faster.

Bill C-52 also recognizes that many older or senior Canadians currently prefer to continue working and saving beyond previous retirement ages. Taxpayers are currently generally required to convert their Registered Retirement Savings Plans, RRSPs, to

Registered Retirement Income Funds, RRIFs, and cease RRSP contributions by the end of the year in which they turn 69.

Currently, registered pension plan taxable distributions or payouts must commence by the end of the year in which the taxpayer turns 69. Under Bill C-52, the government is increasing the age limit for maturing registered pension plans and RRSPs to 71 from 69. This measure will increase work and savings incentives for older Canadians.

I suspect, honourable senators, that many of us in this chamber will benefit from this fine new measure.

While on the subject of Canada's senior population, Bill C-52 will give effect to the government's tax fairness plan, which it introduced last fall and committed to in Budget 2007. This will increase the age credit amount and allow pension income splitting for pensioners. The amount eligible for the age credit will be increased by \$1,000 to \$5,066, providing up to \$150 in new tax relief and up to \$800 in total relief under the age credit.

Also, Canadian residents who receive income that qualifies for the existing pension income tax credit will be permitted to allocate to their resident spouse or common-law partner up to one half of that income.

The proposals in this plan provide Canadian seniors with more than \$1 billion of tax relief per year and help them keep more of their retirement savings.

Honourable senators, another key measure in Bill C-52 in terms of tax relief is the tax back guarantee. This measure follows through on the government's commitment to dedicate all interest savings from federal debt reduction each year to ongoing personal income tax reductions. In other words, as the federal government, of whatever stripe, pays down national debt, it will be required to use the interest savings to cut personal taxes for hardworking Canadians. This proposal will ensure that all Canadian taxpayers will benefit directly from federal debt reduction and share in our nation's prospering economy.

What can I say, honourable senators. This is a significant commitment by the government, one that will be set in legislation to ensure that it continues into the future.

Honourable senators, I referred earlier to the issue of fiscal balancing through equalization payments. What is fiscal balance really all about? It is about our cherished basic Canadian principles of redistribution of wealth enshrined in our Constitution. It is about better roads and renewed public transit. It helps to redistribute from the haves to the have-nots, not only individuals, but provinces. It is about better health care and better-equipped universities and training to help Canadians get the skills they need, and it is about cleaner oceans, rivers, lakes and air. In short, it is about building a fairer, better and more secure future for Canadians and Canada itself. To do that, we must make sure that provincial and territorial governments have adequate funding to ensure a certain standard or level of services that their citizens should be able to count on.

Through Bill C-52, Canada's new government is delivering an historic plan worth over \$39 billion in additional funding to restore fiscal balance in Canada. Indeed, our government is helping to build a stronger federation in which all governments come together to help Canadians realize their potential.



This stronger federation will be built on more respectful relations between taxpayers and governments, with greater collaboration to deliver results for all Canadians. Those results will flow from a renewed and strengthened equalization and territorial formula financing programs proposed in Bill C-52 and will provide \$2.1 billion more in the next two years to eligible provinces and the three territories.

It must be noted, honourable senators, that Budget 2007 provides two positive options for Nova Scotia and Newfoundland and Labrador. They can stay with the current arrangement in terms of the equalization formula and the accord, or they can opt into the new equalization formula. It is their choice.

This bill also improves the fairness of the Canada Social Transfer and the Canada Health Transfer by legislating an equal per capita cash support for these transfers as they are renewed.

Moreover, Bill C-52 will renew and strengthen the Canada Social Transfer by making new and growing investments in support of post-secondary education, children and social programs.

All of this means that when all our provinces and territories are able to invest in health care, post-secondary education, modern infrastructure, child care and social services on an equal basis, everybody wins and all of Canada is stronger and better.

Honourable senators, Budget 2007 addresses another issue that is of particular concern for Canadians and for this government. I am speaking, of course, about the environment. Canadians have entrusted their federal government with responsibility for protecting the quality of our air, water and natural environment. Mr. Harper's government takes that responsibility seriously. That is why the government took action in Budget 2007 by investing \$4.5 billion to clean our air and water, reduce greenhouse gases, combat climate change and protect our natural environment.

• (1520)

Bill C-52 proposes an important step in that direction by proposing to provide \$1.5 billion to an ecoTrust fund that will support initiatives undertaken with provinces and territories in support of clean air and climate objectives. These measures will result in real reductions in greenhouse gas emissions and air pollutants.

There is little doubt of the importance of our health care system to Canadians. It has become an integral part of what defines us as a people. As a result of my own involvement in Montreal with the McGill University Health Centre, I am greatly aware of the daily challenges being faced by our hospitals across this great land. Canadians should be proud of our health care system, but it is important to constantly work to make it better. That is why Budget 2007 takes action to increase funding for the Canada Health Infoway, for a Patient Wait Times Guarantee Trust, for the Canadian Institute of Health Information, and for provinces and territories to protect women and girls from cancer of the cervix.

For wait times, Bill C-52 proposes to provide up to \$612 million to support jurisdictions that have made commitments to implement patient wait time guarantees. There is also a

proposal of \$30 million over three years for patient wait time guarantee pilot projects to assist provinces and territories in implementing their patient wait time guarantees.

Honourable senators, a disturbing statistic about which many folks in this land are unaware is that, after breast cancer, cancer of the cervix is the second most common cancer in Canadian women aged 20 to 44. In July 2006, Canada's government approved a vaccine for use by young girls and women that prevents the majority of this type of cancer, providing protection against the two types of viruses known as HPV that are responsible for approximately 70 per cent of cancers of the cervix in Canada. Bill C-52 proposes \$300 million in per capita funding for provinces and territories to support the launch of a national HPV vaccine program to protect women against this form of cancer.

Honourable senators, I said at the outset that Budget 2007, and by extension Bill C-52, addresses the priorities of Canadians. Certainly education is one of those priorities. Canada's new government clearly knows that a strong system of higher education is an important source of ideas and innovation so that Canada can continue to prosper.

I mentioned earlier the action this government is taking in this bill to help parents save for their children's education by strengthening the RESP program. However, we did not stop there, honourable senators. We have invested more in post-secondary education.

Bill C-52 proposes to increase the Canada Social Transfer by \$800 million per year, starting next year for provinces and territories, with the objective of strengthening the quality and competitiveness of Canada's post-secondary education system. This means that CST funding for post-secondary education will be \$3.2 billion next year, in 2008-09.

Just as important, honourable senators, this support will continue to grow over time as a result of the annual 3 per cent escalator that is part of the renewed CST. This action illustrates just how committed Canada's government is to providing long-term, predictable support for provinces and territories in support of post-secondary education.

Therefore, the government wants to move to a more principle-based system of regulation in the capital markets. There is much encouraging news in the budget about that. I only mention it in passing because there is heavy emphasis placed on bringing a national single securities regulator to this country. It is of very great interest. Our colleague, Senator Grafstein, introduced Bill S-226 last week, and I will be speaking to that at length in the context of the budget next week.

Honourable senators, this is, as I said in connection with last year's budget, not really scintillating stuff, but it is fundamentally important for the betterment of our great nation.

I thank you for your attention in this long discourse. This is important because it means lower taxes for Canadians. It is important because it means an improved operation of our health care system. It is important because it means our major fiscal arrangements with the provinces and territories are back on track

in a sound and principled way for the future so they can provide the necessary services and infrastructure to the residents of their provinces. There is much more, honourable senators. It really is a fine budget, which is good news for all Canadians.

Given the importance and urgency of the measures in this bill, I ask all honourable senators to please give this bill the support it deserves and enact it quickly after, of course, the appropriate review and sober second thought.

**Hon. Tommy Banks:** Will Senator Angus accept a question?

**Senator Angus:** I would be happy to. I cannot guarantee to provide a perfect answer, but I will do my best.

**Senator Banks:** I wish to reiterate what I have said before. I very much envy the fact of the honourable senator's presentation of speeches. They are, at the very least, entertaining.

My attention may have been distracted and, if it was, could he readdress what the effect of clause 8 of this bill will have on Canadian taxpayers?

**Senator Angus:** Which one is clause 8?

**Senator Banks:** It appears on page 5 and it has to do with a new taxation regime for holders of income trusts.

**Senator Angus:** On the issue of income trusts, the government has made itself very clear. The measure introduced by Minister Flaherty on October 31, 2006 had to be done the way it was done for reasons that should be very clear to someone of the honourable senator's high, noble intellect. The minister expressed a real degree of flexibility and willingness to meet with all kinds of affected taxpayers, including an outspoken and strident lobby group from a town to the south of the honourable senator's, in Calgary, the ARC Energy Trust, and others. The government has done its best to accommodate special circumstances.

In the case of the income trusts, the reality has been well explained. There were Americans and other non-Canadian purchasers of these trusts. They were only subject to a withholding tax. They were having a real deal, believe me.

Canadians who have invested in income trusts, by all studies I am aware of, benefited greatly and it was time to level off and reintroduce fairness and some balance into the system. Always, with our complicated tax system, if a comma is changed on page 227 it affects some huge thing on page 7.

As far as the measures in the budget, I believe they are in line and I would really prefer not to go further than this in terms of income splitting and in terms of seniors' pension arrangements, and measures I described in my speech about making life a little less complicated and easier in a tax way for our seniors. The government is committed to that. It is still studying, as I believe honourable senators know, with a panel of experts, measures to improve the tax rules to make it an even fairer system.

**Senator LeBreton:** Supported by all provincial finance ministers as well.

**Hon. George Baker:** In relation to the content of the honourable senator's speech regarding the specifics of the budget, of course there are some very good things in the budget. I believe everyone would agree with some of those measures. I want to question the honourable senator though because, in his free flight a moment ago, he became somewhat political and made reference —

**An Hon. Senator:** Say it ain't so! Partisan?

**Senator Baker:** He became partisan.

• (1530)

I would like to ask this question: During the last election campaign, the Conservative party and the Honourable Stephen Harper sent a brochure around to all Atlantic Canadians. On the front of that brochure it states, quoting a Gaelic proverb, "There is no greater fraud than a promise not kept." Of course, they were referring to the Liberals.

In the brochure, Mr. Harper outlined Paul Martin's promise that Atlantic Canadians would receive 100 per cent of their natural resources; he broke that promise, says the brochure.

**Senator Oliver:** No.

**Senator Baker:** The brochure states that Paul Martin is taking away billions of dollars in offshore revenues from Newfoundland and Labrador, taxing away your future, clawing back oil and gas revenues.

**Senator LeBreton:** That is right.

**Senator Baker:** It goes on to say:

The Conservative Party of Canada believes that offshore oil and gas revenues are the key to real economic growth in Atlantic Canada.

That's why we would leave you with 100 per cent of your oil and gas revenues.

**Senator LeBreton:** That is right.

**Senator Baker:** Then it says:

No small print.  
No excuse.  
No caps.

**Senator Oliver:** That is exactly what it does.

**Senator Baker:** No caps.

**Senator Oliver:** No caps.

**Senator Baker:** Then he continues in a letter dated January of last year to all premiers, and says:

A Conservative government would also support changes to the equalization program . . . . We would remove non-renewable natural resource revenues from the equalization formula —



**Senator LeBreton:** That is right.

**Senator Baker:** And he continued:

— to encourage the development of economic growth in the non-renewable resources sector across-Canada.

**Senator LeBreton:** That is what he did.

**Senator Oliver:** That was done.

**Senator Baker:** In view of that promise to remove non-renewable natural resource revenues from the equalization formula and in view of his promises to have no caps in relation to all of this, does the honourable senator agree with the Gaelic proverb: "There is it no greater fraud than a promise not kept"?

**Some Hon. Senators:** Hear, hear!

**Senator Angus:** First, Senator Baker, like former mayor and now senator, Senator Campbell, I am a great admirer of your rhetoric.

**Senator Milne:** Try to emulate it!

**Senator Angus:** There is no greater compliment than emulation. I am just here practicing my incipient oratorical skills, watching him in action.

There is no greater leader than one who characterizes his comportment and behaviour as the head of a great political movement by promises made, promises kept. When this budget came out, I am telling you it was replete with promises made, promises kept. The only fraud out there now is the Premier of Newfoundland and Labrador and the way he is carrying on trying to mislead the Canadian people. It is a disgrace.

**Some Hon. Senators:** Shame!

**Senator Baker:** No supplementary question, Your Honour.

**Senator Cools:** That is serious, the answer.

**The Hon. the Speaker:** Continuing debate, Senator Joyal.

**Hon. Serge Joyal:** Honourable senators, I did not want to participate in the debate on the substance of the budget this afternoon.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, I want to ensure that if Senator Joyal is speaking today that he not be considered to be the second speaker.

**The Hon. the Speaker:** Is it agreed?

**Senator Comeau:** That is right; 15 minutes.

**Senator Tardif:** Thank you.

**Senator Joyal:** I should have made a request for authorization from the chamber.

Honourable senators, I want to address the opening remark of Senator Angus, for whom I have the greatest esteem, when he referred generally to the power of the Senate in relation to a budget. What is our constitutional status in relation to voting on budgets? I know there are different opinions on this matter, and there are even opinions that would like to see us rubber-stamp budgets. However, that is not what the Constitution provides for, and is not what precedents provide for.

Section 53 of the Constitution Act, 1867, deals specifically with budget measures. The side bar reads "Appropriation and Tax Bills," and the section states:

Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

That is the only limit that exists in terms of appropriation or budget bills.

Precedence shows quite clearly that the Senate has amended and even defeated budget bills.

**Senator Cools:** That is right.

**Senator Joyal:** That has never entailed the defeat of the government. Why? We are not a confidence chamber. A vote on the budget in the other place that defeats the budget immediately entails the dissolution of Parliament and the call for an election. In this chamber, precedents exist where a defeated budget does not entail the automatic dissolution of the other place and the call of a general election.

As for precedents, Senator Murray will remember Bill C-93, the budget implementation bill, entitled "The Government Organization Bill" of 1992. It was introduced in the Brian Mulroney government by then Minister of Finance Don Mazankowski. That budget was defeated at third reading in a tie vote of 39-39, with three abstentions, on June 10, 1993.

In other words, a budget can be defeated in this place. It happened in that period of time with very strange circumstances. Let me remind honourable senators of a senator sitting on the government side, the late Senator Finlay MacDonald, who many of you will remember.

**Senator Cools:** We helped him to defeat Bill C-93.

**Senator Joyal:** He moved a motion — and His Honour was in the Senate at that time — to amend the implementation bill to delete certain clauses at third reading. What were those clauses? The clauses which merged the Canada Council and the Social Sciences and Humanities Research Council into one. That amendment introduced by the late Senator Finlay MacDonald was defeated in a recorded division on June 3, 1993.

Five days later, on June 8, 1993, former Senator Royce Frith introduced a second motion to amend the bill at third reading. The motion was defeated on a recorded division on June 10. Immediately after that a final vote was taken on third reading and the bill was defeated.

**Senator Cools:** I voted it down.

**Senator Joyal:** Although the government had a clear majority in the Senate at that time, Senator MacDonald and other Conservative senators voted against the government, creating a tie which led to the defeat of the budget implementation bill.

Honourable senators, it is quite clear that the recent precedents speak to the effect that this chamber can defeat a budget. We all know that the then Prime Minister of Canada did not go to see the Governor General to call an election.

Honourable senators, there is another precedent regarding appropriation bills. I am referring to May 11, 1989, four years earlier, when the Standing Senate Committee on National Finance reported Bill C-4, an appropriation bill for 1989-90, with an amendment. With leave, the Senate moved immediately to the consideration of the report. The report was adopted on division, which had the effect of adopting the amendment. The bill, as amended, was then passed at third reading on division. What happened then? On May 16, the bill was sent to the House of Commons and the Senate received a message from the House of Commons refusing the amendment.

The Senate then made a motion to send to the House insisting on its amendment. The motion with the message from the House of Commons was referred to committee. The committee, in its report on May 17, did not insist upon its amendment but made a number of recommendations. There was a motion to amend the committee report, which was defeated and the report was adopted. The bill was then passed without amendment and received Royal Assent immediately.

• (1540)

In other words, it happens, honourable senators, that when this place, this chamber considers it appropriate to amend or to defeat, it does so. There is nothing in the Constitution against that. In fact, the precedents on both sides of this chamber speak to the contrary.

Again, I reserve on the substance of the budget, but when this chamber is entering into debates on the budget it has exactly the same power it has in relation to any other bill.

All honourable senators know that budget bills and appropriation bills are of a very specific nature, because those are the bills on which the government is evaluated and it has a strong impact in the public opinion debate, there is no doubt about that. When the Senate exercises its powers, it must exercise them with wisdom. That is essentially our role. Our role is certainly not merely to rubber-stamp any budget bill when this house considers that there are sections of the budget, as precedents show, that need to be canvassed and properly reported to this place.

Honourable senators, I thought that it was important to have that in mind because the recent precedents speak in that context. It is with that in mind that I think we must enter into this debate.

**Senator Angus:** Would the honourable senator take a question?

**Senator Joyal:** With pleasure, honourable senator, if I am within my time.

**Senator Angus:** Do I understand that the honourable senator was referring to Bill C-93, the Budget Implementation Act of 1992?

**Senator Joyal:** Yes; exactly, honourable senator.

**Senator Angus:** Would the honourable senator agree with me that, unlike Bill C-52, Bill C-93 was not particularly time sensitive, did not appropriate funds, did not include significant amendments to the Income Tax Act and did not contain financial commitments to people, provinces and nonprofit organizations that would expire if not passed in a timely manner?

**Senator Joyal:** I totally agree with the honourable senator. That bill was of a specific nature, but it was in relation to an implementation bill of the budget. I can agree that Bill C-93, as I explained, was merging the Canada Council and the Social Sciences and Humanities Research Council. Many senators were there. I was not in the chamber, but I know that on the government side many senators were there at that time, probably participated in that debate and heard a number of witnesses at the committee level.

I am stating that that power exists. It is within our wisdom to exercise it, with the description of the substance of the bill that we have now been asked to consider and study. That is essentially what I am saying. I am not saying that what the Senate did with Bill C-93 we have to do now. We are just starting the debate, we will hear witnesses next week and this house will pronounce on its majority. That is all I am saying.

I do not want senators to think that we just have to vote for any budget bill that comes from the other place and that is it. I do not think it is the power of this place, in relation to the letter of the Constitution and to the precedents that exist. That is all I am saying.

**Senator Angus:** If I may, honourable senators, it is an interesting point that Senator Joyal raises and it could open up a large debate. However, the reality is — and I think honourable senators will agree — that in the case of Bill C-93 the issue was rather those granting councils should be separate entities and not an issue of what was or was not appropriate fiscal policy. There is a long-standing convention in this place that when money bills that have been passed in the other place come before us, it is our role to give appropriate review, yes, but not to block or vote those bills down.

**Senator Comeau:** Just like the Governor General.

**Senator Angus:** I heard that from Senator Hays, by the way.

**Senator Joyal:** As I said, a bill is a bill.

**Senator Tkachuk:** And Mr. Dion.

**Senator Joyal:** The precedents show quite clearly that a bill related to a budget, be it the one we have under consideration now, a bill dealing with transfer of money to provinces, to citizens, to groups, and so on — and the honourable senator has described the bill quite appropriately — has a specific nature. A bill in the budget that contains some measures of implementation is still a budget bill. One does not make any distinction between what is a transfer of money and what is a reorganization of government structure to produce a result within the budget. It is still a budget bill.



Again, I mention to honourable senators, in the case of a debate, that is what we must take into account when this house, in its wisdom, exercises its judgment and votes at the final stage on the future of the bill.

**Senator Angus:** If I may, Your Honour, you will appreciate my dismay having, as I did, quoted the leader of the Liberal Party Stéphane Dion when he said that this bill should be passed by the majority in the Senate. "That," he said, "is the law." What did he mean by that? Does the honourable senator disagree with his leader?

**Senator Joyal:** I have not had the opportunity to read the full statement of the Leader of the Opposition in the other place. What I am saying is that this is the Constitution. That is the way I have learned it and that is the way I can check the precedents. I think it is important that we exercise the role of this chamber of an independent chamber of sober second thought, and I insist on the two qualifications, the independent, sober second thought. That is what the Supreme Court of Canada told us in 1979, namely, that we have a duty to do.

**Senator Di Nino:** No one argues with that.

**Senator Joyal:** I approach a vote on a measure as important and significant as a budget bill, not only in the context of the Constitution, but also in the political context of it. I am stating to the honourable senator that there is the law of the land, and the law of the land, as I am informed, is the way I have interpreted it.

**Hon. Anne C. Cools:** May I ask a question?

**The Hon. the Speaker:** Questions and comments?

**Senator Cools:** I have a question. I thought when Senator Joyal rose he was putting a question to Senator Angus. Could Senator Angus answer the question?

**The Hon. the Speaker:** It is on Senator Joyal's speech that we are allowed questions and comments.

**Senator Cools:** I was thinking Senator Joyal was in a bit of an odd spot because he is not really the second speaker. We should go back to Senator Angus to complete his time because, when Senator Joyal rose to speak, no one inquired whether or not some of us wanted to put questions to Senator Angus.

**The Hon. the Speaker:** Senator Joyal's time is expired, unless he is asking for an extension, and he is not.

On motion of Senator Tardif, debate adjourned.

[Translation]

#### VISITORS IN THE GALLERY

**The Hon. the Speaker pro tempore:** Honourable senators, I wish to draw to your attention the presence in the gallery of a group of grade eight students from École Pointe-des-Chênes in Sainte-Anne, Manitoba. They are accompanied by two of their teachers and are the guests of the Honourable Senator Chaput.

On behalf of all honourable senators, I would like to welcome you to the Senate of Canada and wish you well on the remainder of your school year.

[ Senator Joyal ]

[English]

#### CITIZENSHIP ACT

##### BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

**Hon. Consiglio Di Nino** moved second reading of Bill C-14, to amend the Citizenship Act (adoption).

He said: Honourable senators, unless Senator Baker is prepared to engage in a spirited exchange, I am afraid that this presentation will not be quite as passionate and interesting as the one we just had, because I suspect that the subject matter would be something in principle with which we are all in agreement.

[Translation]

Honourable senators, I am pleased to begin the debate at second reading of Bill C-14.

Before I begin, I would like to remind my colleagues that this year we are celebrating the 60th anniversary of Canadian citizenship. Our first Canadian Citizenship Act came into force in 1947, and the new Citizenship Act in 1977.

I think that these legislative tools have been very useful. However, there is no question that some parts of the act must be updated to take into account changes in our society.

• (1550)

[English]

Recently, the introduction of the U.S Western Hemisphere Travel Initiative has increased attention on Canadian citizenship as an issue, and as people are seeking to get passports, more questions surrounding citizenship and proof of it are emerging. Media reports have highlighted cases of individuals who have been affected by the loss of Canadian citizenship. There are also examples of people who never actually obtained citizenship despite having every reason to believe that they had — the so-called "lost Canadians." Lastly, other cases have involved individuals who have not lost citizenship but, rather, have lost their proof of it and need to reapply.

In this regard, before I address the legislation before the house, I would be remiss if I did not mention that the Minister of Citizenship and Immigration recently made some significant proposals to reform several elements of the Citizenship Act that need updating.

Honourable senators, on May 29, before the House of Commons Standing Committee on Citizenship and Immigration, Minister Finley proposed a number of changes to the act. With respect to those proposals, the following was said by a well-known advocate for reform of the legislation:

There have been some attempts to initiate fixes to the Citizenship Act at one time or other. But they've usually been pretty limited in scope. This... seems to be attempting to resolve, not just the problems that could

arise in the future, but also some past ones, and in law that's unusual to try to do something like that. So I'm impressed that the government is taking this broad-based approach to trying to solve the problem.

The minister recently received accolades in an editorial in Vancouver's *The Province*, which stated:

Citizenship minister goes a long way to right old wrongs.

The editorial went on to say:

Finley is to [be] congratulated for a noble effort to correct a long-standing injustice.

In her May 29 statement, Minister Finley said:

Canada's New Government has taken decisive action to resolve many of the cases that have been brought to our attention. However, more action is required. That is why today, I announced that I plan to introduce new legislation to amend the Citizenship Act.

This will mean that anyone born in Canada on or after January 1, 1947, will have citizenship even if they had lost it under a provision of the 1947 Canadian Citizenship Act.

Anyone naturalized in Canada on or after January 1, 1947, will have citizenship even if they had lost it under the 1947 Act.

And anyone born outside the country to a Canadian mother or father, in or out of wedlock on or after January 1, 1947, will have citizenship if they are the first generation born abroad.

My heart goes out to all those who have been affected by this issue due to outdated laws that have been on the books for many years. While the previous government chose not to act, we are taking action and moving forward to help those who whose citizenship is in question.

Honourable senators, along with our government's other legislative proposals, Bill C-14 is a clear demonstration of this government's commitment to reforming the Citizenship Act. This measure has been introduced to reform the law that governs the citizenship of children adopted abroad. Bill C-14 is particularly important because it not only strengthens a number of values and principles that are at the core of our great country, it also addresses one of the central threads of the fabric of our society and country. That thread is our citizenship. As we all know, citizenship is not something to be taken lightly or for granted.

[Translation]

Bill C-14 is about families. It is about the steps that a family must take to make their internationally adopted child a Canadian citizen.

Every year, 2,000 Canadian families open their hearts to children born abroad, offering them love and a home. The child becomes part of the family, but the parents must fulfill another requirement before their child can become part of the larger Canadian family. Unlike children born to Canadian citizens living

abroad, a child born in another country and adopted by Canadian citizens is not considered to be a Canadian citizen. The adoptive parents must first request permanent resident status for their child.

[English]

Bill C-14 will eliminate that requirement. It is designed to address a provision of the Citizenship Act that creates excessive distinction between children born to Canadians living in another country and children born in another country who are adopted by Canadians. I am sure that honourable senators will agree that Canadians who adopt a foreign child make no such distinction. They will love that child and raise him or her to the best of their abilities as much as if they had given birth to the child themselves.

This bill is about adding a new degree of efficiency to Canada's citizenship program. It allows the Parliament of Canada to show its support for the caring Canadian families who choose to adopt children in another country. This bill will show its support for those families who give so much in order to offer a child an opportunity for a better life here in Canada.

Honourable senators, when Canadians living abroad welcome the birth of a child, Canada happily welcomes this new citizen of our country. By contrast, when Canadians travel to another country to welcome an adopted child into their family, Canada requires them to apply for permanent residence. That is not right. We are talking about adopted children, often barely out of infancy. Their parents are Canadian citizens. The government believes that Canadian families should welcome them as warmly as their adoptive family.

Honourable senators, the adoption process can be long and complicated, often taking up to two years and, in some cases, even longer. There are reasons that international adoption is a complex process. There are a number of partners involved. The provincial and territorial governments play a lead role in approving the adoption. The country where the child is living must also approve. The Government of Canada is involved through the immigration process. As a country in a international community, we want to ensure that international adoptions are legitimate.

Sadly, in some parts of the world child trafficking is a serious concern, making additional background checks necessary. In many cases, the adoption must also meet the requirement of the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoptions. The entire process can take considerable time and parents are understandably anxious. I am sure that all honourable senators can understand that Canadian parents going through this process would be frustrated by the additional cost and delay. There is no reason we should create an extra step at the end of an already lengthy process before we welcome their child into the Canadian family. There is no reason that they should need to apply for permanent resident status for their child. They should be able to immediately apply for his or her citizenship.

I repeat: This extra step needs to be eliminated. That is what Bill C-14 will do.

Bill C-14 is a clear and bold reaffirmation of the values and principles that define our country, our identity and the notion of the Canadian family. The discussions leading up to this bill have



been long, deliberate and democratic. The bill is the product of extensive study and consultation. The government has heard from stakeholder groups such as the Adoption Council of Canada, the Adoption Council of Ontario and the Adoptive Families Association of British Columbia. They are all behind this bill.

• (1600)

Many families have their own stories to tell, stories of parents waiting for months — at times even more than a year — for their adopted child to obtain Canadian citizenship. These families are also behind the bill.

We can do a better job of supporting Canadian families and that is what our new government is doing.

[Translation]

Honourable senators, we are also aware that Canadian citizenship is a very valuable thing. We are responsible for protecting it and not granting it without due cause. During our consultations on this bill, a number of legitimate concerns were raised about this issue. I would emphasize to honourable senators that the bill tabled in the Senate today addresses those concerns. It takes into account the possibility that some people may try to adopt children solely for the purpose of acquiring Canadian citizenship for that child. These are known as “adoptions of convenience”. The bill is designed to address this concern in particular, and it does so in a practical way.

Bill C-14 and its regulations contain a number of provisions to protect Canadian citizenship. These provisions relate to the proven existence of an authentic relationship between the parents and the child. It must be clear that the best interests of the child are paramount. A home study must be conducted. The biological parents must have consented to the adoption. No one may make an unjustified material gain from the adoption.

[English]

I repeat that the government understands that the matter of adoption falls within the jurisdiction of provincial and territorial governments and therefore, the province of residence of the adoptive parents plays an integral role in the adoption process. Bill C-14 does nothing to alter or interfere with that jurisdiction. This bill respects the jurisdiction of our provincial and territorial partners. Provinces and territories have indicated that they support Bill C-14 and are satisfied that the bill respects their role in adoption procedures. Certainly, Canada needs immigration from an economic perspective; but at the end of the day, immigration is about building a better Canada. Immigration is about building communities and families and honourable senators, that is what Bill C-14 is all about.

Let us give our support to Canadians who turn to the immigration system to build their families through overseas adoption. Just as they are welcoming that child into their own family, let us help them welcome that child into the Canadian family as well. It is time to let these families know that we are listening to them. Let us support them by passing this legislation. Let us give children adopted overseas timely access to citizenship. Let us show Canadians we want new families to come together as quickly as possible.

[ Senator Di Nino ]

Honourable senators, each year, hundreds of Canadian families receive a very special blessing. They open their hearts and homes to care for and provide love and opportunity to children who often come from impoverished or war-ravaged countries where the value of human life has been diminished, if not totally forgotten. Through the passage of Bill C-14, we can honour and support the commitment those Canadians show when they choose to adopt a child born outside of our country. Our Canadian values demand that we share these blessings with others. When we do, we are even more richly blessed.

When this bill comes into force, it will reduce inappropriate distinctions and support families.

The arrival of a child is a blessed event for any family. It is time to recognize that children born to Canadians overseas and children adopted by Canadians overseas are not loved any differently. I urge colleagues to allow swift passage of this legislation so that, as parliamentarians, we demonstrate our support for the caring families who choose to adopt a child born outside of our country.

On motion of Senator Tardif, debate adjourned.

## CANADA TRANSPORTATION ACT RAILWAY SAFETY ACT

BILL TO AMEND—MESSAGE FROM  
COMMONS—SENATE AMENDMENTS CONCURRED IN

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons returning Bill C-11, to amend the Canada Transportation Act and the Railway Safety Act and to make consequential amendments to other acts, and acquainting the Senate that they have agreed to the amendments made by the Senate to this bill without further amendment.

[Translation]

## BANKRUPTCY AND INSOLVENCY ACT COMPANIES' CREDITORS ARRANGEMENT ACT WAGE EARNER PROTECTION PROGRAM ACT

BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-62, to amend the Bankruptcy and Insolvency Act, the Companies' Creditors Arrangement Act, the Wage Earner Protection Program Act and chapter 47 of the Statutes of Canada, 2005.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Comeau, bill placed on the Orders of the Day for second reading two days hence.

[English]

## CRIMINAL CODE

### BILL TO AMEND— SECOND READING—DEBATE ADJOURNED

**Hon. Terry Stratton** moved second reading of Bill C-10, to amend the Criminal Code (minimum penalties for offences involving firearms) and to make a consequential amendment to another Act.

He said: Honourable senators, I am pleased to have the opportunity to speak to Bill C-10. This bill proposes to amend the Criminal Code to address gun crimes. These amendments would increase the minimum penalties for specific, serious firearm offences and provide escalated minimum penalties for repeat firearm offenders.

[Translation]

The original version of Bill C-10 was amended by the other place in an attempt to target the main problems facing many major Canadian cities with respect to armed gangs. More specifically, Bill C-10 proposes increasing mandatory minimum sentences to five years for a first offender and seven years for repeat offenders, in the case of eight serious offences committed with a firearm. Those offences are: attempted murder, discharge of a firearm with intent to cause bodily harm or prevent an arrest, sexual assault, aggravated sexual assault, kidnapping, hostage taking, robbery and extortion.

[English]

The higher minimum penalties will be applicable for those who use a restricted or prohibited firearm in the commission of an offence, or if they commit an offence in connection with a criminal organization which includes a gang. If neither of those two possible aggravating factors is present, the current four-year penalties will apply.

Bill C-10 also amends other offences of the Criminal Code that do not involve the actual use of firearms in the commission of an offence. For example, Bill C-10 amends firearm trafficking or smuggling, where there is the illegal possession of a restricted or prohibited firearm with ammunition. The bill proposes a minimum penalty of three years for a first offence and five years for a second or subsequent offence.

• (1610)

Further, Bill C-10 creates two new offences dealing specifically with the theft of firearms. It is proposed that breaking and entering to steal a firearm and robbery to steal a firearm may be made indictable offences only, with no minimum penalty but a maximum penalty of life imprisonment.

[Translation]

Honourable senators, you can see that Bill C-10 targets only very serious firearm-related offences and deals harshly with people who engage in criminal gang activities involving firearms. It does not propose tougher mandatory minimum penalties for a wide range of offences. Instead, it is a response to the fact that, according to crime statistics and law enforcement officials,

handguns have become the weapon of choice in some circles where crimes involving firearms are on the rise.

[English]

It is acknowledged that, in general, firearm offences have decreased steadily over the years. However, this has not been the case across the board. A worse and emerging trend has developed with respect to urban gun violence, particularly in relation to the drug trade. When Bill C-10 was studied in the other place, police and prosecutorial representatives, among other stakeholders, testified on the nature of the gun and gang violence problem, which is escalating in some of Canada's large urban centres, as can be seen in Toronto this last weekend.

Witnesses who appeared before the House of Commons Standing Committee on Justice and Human Rights spoke to the growing illegal possession of firearms, particularly handguns, as a tool in the drug trade for purposes of exerting power and control of territory against rivals or for self-defence.

Witnesses with expertise in cities such as Vancouver, Toronto and Montreal expressed great concern about the emergence of armed street gangs, particularly when that erupts in violent acts such as shootings in public places.

Concerns were also expressed about access to illegal guns that originate either from within Canada for thefts and break-ins or are smuggled into Canada from the United States. I am pleased that Bill C-10 is tailored to respond specifically to those types of criminalities involving firearms. It is appropriate that the Criminal Code provides that those convicted of firearm trafficking and smuggling be sentenced to a minimum of three to five years. These penalties are closer to the minimum penalties that are imposed on those convicted of having used firearms to commit serious offences.

Even though gun traffickers and smugglers may not be directly involved in the commission of offences where the firearms are used, they are the ones responsible for providing illegal guns to people who will use them for criminal purposes. They are indirectly responsible for the gun violence that exists in many of our communities, and such activities should be met with very tough minimum penalties.

[Translation]

I am also proud, honourable senators, that Bill C-10 proposes tougher minimum penalties for repeat offenders than for first-time offenders. I repeat, in my opinion, it is appropriate that the Criminal Code provides escalated minimum penalties so that repeat offences are recognized as aggravating factors that must be taken into account in sentencing.

[English]

As well, gang members who use firearms in the commission of serious offences such as attempted murder, robbery and extortion should face longer jail terms. Street gangs and more sophisticated criminal organizations are a great concern. The possession and use of firearms to advance these criminal activities needs to be addressed through tougher legislative measures as proposed under this bill.



Honourable senators, it should be noted that Bill C-10 does not run contrary to the sentencing principles currently set out in the Criminal Code. The Criminal Code provides as a fundamental sentencing principle that a sentence should be proportionate to the gravity of the offence and the degree of responsibility of the offender. It also provides that the purpose of sentencing is to impose sanctions on offenders that are just, in order to contribute to respect for the law and the maintenance of a just, peaceful and safe society.

Accordingly, the objectives in sentencing are to denounce unlawful conduct, deter the offender and others from committing offences, separate offenders from society where necessary, as well as to assist in rehabilitating offenders and to promote offenders' acceptance of responsibility and their acknowledgment of the harm they have caused to their victims and the community.

The manner in which the higher minimum penalties will apply under Bill C-10 is intended to ensure that they do not result in grossly disproportionate sentences contrary to section 12 of the Canadian Charter of Rights and Freedoms. The higher levels of seven years for using a firearm and five years for the non-use offences are reserved only for repeat firearms offenders.

If an offender has a relevant and recent history of committing firearms offences, it is reasonable to ensure that the specific sentencing goals of deterrence, denunciation and separation of serious offenders from society are given priority by the sentencing court.

[Translation]

Honourable senators, in addition to being fair, the minimum penalties suggested in Bill C-10 appropriately target the emerging problems of guns and gangs.

The legislation has often been criticized because it is not the most effective way of dealing with the complex problems of crime. I think it is important to point out that Bill C-10, like the other crime bills that are before Parliament, is not meant to be a panacea.

[English]

I believe that Canada's new government understands and is committed to ensuring that tough legislation needs to be backed by other crime control measures. Other efforts are needed to tackle gun violence. Targeted and effective law enforcement is essential. This is a shared responsibility among the different levels of government.

The federal government has made commitments toward beefing up Canada's law enforcement capacity to deal with gun- and drug-related crimes, among other concerns.

The government also committed to establish a new cost-shared program with provincial and municipal governments to enable them to hire at least 2,500 new police officers. In addition, the government has dedicated resources for specific crime prevention programs to prevent young people from becoming involved with gangs, guns and drugs in the first place.

[Hon. Terry Stratton]

Honourable senators, as you can see, the government's approach to tackle the problem of gun crimes is not nearsighted. It is not merely a legislative response. Our immediate responsibility in this place, however, is to examine Bill C-10, which seeks to amend the Criminal Code to provide tougher penalties for serious gun crimes.

As I mentioned earlier, the bill proposes to provide tougher penalties in a very restrictive manner and one that reflects quite specifically the emerging problem with guns and gangs.

[Translation]

I hope that we will do our duty, which is to examine this bill diligently and impartially. I therefore encourage all senators to vote to refer this bill to the Standing Senate Committee on Legal and Constitutional Affairs for immediate review.

On motion of Senator Tardif, debate adjourned.

• (1620)

## NATIONAL FINANCE

### COMMITTEE AUTHORIZED TO MEET DURING SITTINGS OF THE SENATE

**Hon. Gerald J. Comeau (Deputy Leader of the Government),** pursuant to notice of June 13, 2007, moved:

That the Standing Senate Committee on National Finance have the power to sit on Tuesday, June 19, 2007 and on Wednesday, June 20, 2007 even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion adopted.

## PUBLIC SECTOR INTEGRITY COMMISSIONER

### NOMINATION OF MS. CHRISTIANE OUMET—MOTION TO REFER TO COMMITTEE OF THE WHOLE ADOPTED

**Hon. Gerald J. Comeau (Deputy Leader of the Government),** pursuant to notice of June 13, 2007, moved:

That the Senate do resolve itself into a Committee of the Whole on Tuesday, June 19, 2007, at 8 p.m., in order to receive Christiane Oumet respecting her appointment as Public Sector Integrity Commissioner;

That television cameras be authorized in the Senate Chamber to broadcast the proceedings of the Committee of the Whole, with the least possible disruption of the proceedings; and

That photographers be authorized in the Senate Chamber to photograph the witness before the commencement of the testimony, with the least possible disruption of the proceedings.

Motion adopted.

[English]

# STUDY ON USER FEE PROPOSAL FOR SPECTRUM LICENCE FEE

## REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE ADOPTED

The Senate proceeded to consideration of the eleventh report of the Standing Senate Committee on Transport and Communications, (*Department of Industry User Fees Proposal for a spectrum licence fee for broadband public safety communications in bands 4940-4990 MHz*), presented in the Senate on June 13, 2007.

**Hon. David Tkachuk:** I move that the report be adopted.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

## CONSTITUTION ACT, 1867

### BILL TO AMEND— REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the thirteenth report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill S-4, to amend the Constitution Act, 1867 (Senate tenure), with amendments, a recommendation and observations), presented in the Senate on June 12, 2007.

**Hon. Donald H. Oliver:** Honourable senators, I move the report standing in my name.

I would like to make a few remarks about this report. Rule 90 of the *Rules of the Senate* stipulates:

A standing committee shall be empowered to inquire into and report upon such matters as are referred to it from time to time by the Senate . . .

Further, rule 99 reads as follows:

On every report of amendments to a bill made from a committee, the Senator presenting the report shall explain to the Senate the basis for and the effect of each amendment.

I rise today, honourable senators, to fulfill the requirements under those rules.

The first amendment effectively changes the date of the short title of the bill. This bill was introduced in the Senate on May 30, 2006. Clause 1 instructed that the bill should be cited as the "Constitution Act, 2006 (Senate tenure)." Given it is now June 2007, the short title has been amended and now reads as the "Constitution Act, 2007 (Senate tenure)."

The second amendment replaces clause 2 of the bill. Originally, clause 2 proposed a term limit of eight years for new senators, while eliminating the mandatory retirement age of 75 years, except for existing senators. The amendment changes the length of appointment to 15 years and states that the term is neither extendible nor renewable. The amendment reinstates the

mandatory retirement age of 75 years for all senators. This motion in amendment was adopted on division.

In addition, the committee attached a recommendation to the committee's report to the Senate also adopted on division. This recommendation states:

. . . the bill, as amended, not be proceeded with at third reading until such time as the Supreme Court of Canada has ruled with respect to its constitutionality.

To attempt to explain this element of the committee's report, I thought it might be useful to invoke the words used by my colleague, the Honourable Senator Baker, during our clause-by-clause proceeding on this bill. Senator Baker informed the committee of the following:

It would, I think, be difficult to find an exact section under which we are operating. These are extraordinary times calling for extraordinary solutions.

Most of our procedural authorities state clearly that, in the case of legislation, a committee is empowered to report on a bill with or without amendment or can recommend that a bill not be proceeded with further in the Senate.

In this chamber, we have in the *Rules of the Senate* some guidelines to instruct us in these extraordinary times. It should be noted, honourable senators, that this decision by your committee is a hybrid of several rules. For example, rule 98 states:

The committee to which a bill has been referred shall report the bill to the Senate. When any amendment to the bill has been recommended by the committee, such amendment shall be stated in the report.

On the one hand, the committee's obligation to report the bill as amended is being met. However, rule 100, which seems to apply in this case, states:

When a committee to which a bill has been referred considers that the bill should not be proceeded with further in the Senate, it shall so report to the Senate, stating its reasons. If the motion for the adoption of the report is carried, the bill shall not reappear on the *Order Paper and Notice Paper*.

That was not done. There are some examples of Senate committees recommending that bills not be proceeded with; however, your committee's procedure in Bill S-4 has not been used before in this chamber.

As the chair of the Standing Senate Committee on Legal and Constitutional Affairs, it is my duty and obligation, therefore, to report that your committee has agreed to report Bill S-4 with amendments, with observations appended and with a recommendation that the Senate not proceed with the bill until such time as the Supreme Court of Canada has ruled with respect to its constitutionality.

I would like to point out that these decisions were made on division. I remind honourable senators that under the Supreme Court Act, only the Governor-in-Council can refer matters to the Supreme Court. It is not within the power of this chamber to do so.



How honourable senators decide to proceed will no doubt be the subject of much debate and examination, and I urge caution and careful deliberation as we enter into this grey area without the comfort of rules and procedures that have been years in the making.

In these deliberations, honourable senators would do well to consider the potential impact of this matter on the public reputation of the Senate as well as its acceptability in a more limited procedural sense.

I would like to make reference, if I may, to a text with which most honourable senators are quite familiar. In 2003, Professor C.S. Franks published an article entitled, "The Senate in Modern Times," which can be found in chapter 6 of the Honourable Senator Joyal's book entitled, *Protecting Canadian Democracy: The Senate You Never Knew*. Professor Franks, a widely respected authority on Canada's Parliament provides a useful reference point for those of us here today. In his assessment of the work of Senate committees, Professor Franks noted that public perceptions of the Senate are heavily, and negatively, influenced by relatively exceptional circumstances of high-profile partisan conflict. He went on to observe:

The thoughtful deliberations and first-rate investigations that the Senate carries out in an efficient, non-partisan manner — the normal routine of the Upper House — are largely ignored by the media.

More specifically, having considered the legislative work of Senate committee, Professor Franks concluded that the case studies he had examined.

... show the Senate performing a legislative role complementary to that of the House of Commons, and making a largely non-partisan and highly constructive contribution to the legislative process.

That is found at page 177.

• (1630)

I urge honourable senators to seriously consider the implications of the actions being reported here today, including the presentation of observations that were drafted by the opposition without any participation by other committee members. Like the amendments and recommendations I have presented as required by my role as committee chairman, these observations were a partisan *fait accompli*. There was not even the pretence of collaboration, not even a gesture towards the working culture that Professor Franks identifies as central to the Senate's traditional contribution and its capacity to complement the naturally more partisan work of the House of Commons.

This brings us to the larger question honourable senators cannot avoid today: Do the changes and related actions that we must consider in this report stage debate contribute to the strengths of this institution or undermine them? Would the acceptance of this report by the chamber testify to the continuing vitality of the traditions Professor Franks identifies, or merely provide another media moment when the Senate confirms the lowest opinions of its detractors? Honourable senators, it is not just the fate of this bill that is in our hands; it is the larger fate

of our institution, ultimately determined by the public's perceptions that are shaped by how we conduct ourselves at critical moments when institutions reveal themselves for what they truly are.

**Hon. Anne C. Cools:** Would the honourable senator answer a few questions?

**Senator Oliver:** I will try.

**Senator Cools:** In the remarks of the honourable senator, he made some reference to the committee or some people on the committee acting against the opinions of most of the procedural authorities. Could he tell us who those procedural authorities might be?

**Senator Oliver:** I cited them from the *Rules of the Senate*.

**Senator Cools:** I did not realize the *Rules of the Senate* was a person or people. "Procedural authorities" are usually persons or people. I heard what the honourable senator said in terms of citing the *Rules of the Senate*, but he distinctly said "the procedural authorities." In my understanding, an "authority" is a person. Perhaps I misunderstood.

**Senator Stratton:** No, the institution; this is an institution.

**Senator Cools:** Thank you for telling me that.

When one says "an authority," there usually is a human body behind it. That has not been answered. That is fine.

Essentially, Senator Oliver is attempting to impugn other members of the committee and to say that they did not observe the *Rules of the Senate* in this work. That is a different matter.

My other question concerns the fact that, as a senator, I attempt to make a contribution and to raise what I consider to be serious questions. As the honourable senator knows, I was once a member of his committee, and I am no longer for reasons that are still not totally clear to me. I did attend a particular meeting of the Standing Senate Committee on Legal and Constitutional Affairs at which time I put what I thought were some important questions to the gentlemen who appeared before the committee. I have forgotten their names, but they were the gentlemen lawyers from the Privy Council Office. At the time, I understood that I was to have my questions answered. I have not heard from the committee, and I have not heard from the Privy Council gentlemen. Could the chairman of the committee tell me what the government's answers were to the questions that I raised at the committee?

**Senator Oliver:** Honourable senators, Senator Cools has attended dozens of meetings of the Standing Senate Committee on Legal and Constitutional Affairs. I do not know what committee she is referring to, and I do not recall the witnesses to whom she is referring. Honourable senators, if she would refer me to the day and the date and names of the witnesses, I will do my best to obtain that information and report it back to this chamber.

**Senator Cools:** I am sure Senator Oliver would discover, if he would examine the record, that I have not attended a meeting of the Legal and Constitutional Affairs Committee for quite some time. The last time I attended was on Bill S-4, and I am trying to

remember now, for it was with the Federal Accountability Act when I was so rudely and terribly removed from the committee. I cannot tell him the exact date of the last meeting I attended, but I have no doubt that it would be easy for Senator Oliver to discover that date. I remember one of the names of the Privy Council gentlemen; it was Mr. Matthew King. I asked him important questions in respect of the drafting of the bill and in respect of the sections of the BNA Act which described what senators were and in respect to words about "holding" and the senator's place. I had contended and raised an important point that the bill had completely altered the BNA Act. I can look up the sections, but I would have thought that my presence there that day was easily remembered.

**The Hon. the Speaker:** Continuing debate?

**Senator Cools:** I would like to ask another question, then. I did not realize that the honourable senator just refused. I was under the impression that questions should be answered.

I would like to ask the chairman of the committee the following: I have raised several questions here on the floor of this house in respect of the Senate tenure bill, and I have not received one single answer. If not Senator Oliver, perhaps some member of the government could tell me when I could get an answer.

**The Hon. the Speaker:** Honourable senators, Senator Oliver's time is expired. Continuing debate.

**Hon. Joan Fraser:** Honourable senators, I would ask leave to ask one quick question of Senator Oliver.

**The Hon. the Speaker:** It is up to Senator Oliver to ask leave for an extension of his time.

**Senator Oliver:** For the one question, I agree.

**The Hon. the Speaker:** I have to get consent of the house. Does the house agree?

**Hon. Senators:** Agreed.

**Senator Fraser:** Thank you very much, honourable senators.

When I was listening to the explanation of Senator Oliver, of the amendments made in committee, and his description of the original bill, he explained the committee's decision to amend the bill in order to specify that terms of senators should not be renewable or extendable. I thought it would be worth putting on the record, should anyone be consulting this debate — and I hope he will agree with me — that the original bill was silent about the matter of renewable terms. It did not say that terms could not be renewed. Therefore, it was widely assumed, including, I believe, by Prime Minister Harper in his appearance before the special committee on the subject matter of the bill, that because the original bill did not say anything and did not say the terms cannot be renewed, that meant they would have been renewable. That was why the committee thought it necessary, on division, as was pointed out, to specify that terms not be renewable or extendable. Does the honourable senator agree with me that that is worth putting on the record?

**Senator Oliver:** I deeply appreciate Senator Fraser raising that question. It helps to clarify what the committee did. I could have added a sentence to my remarks that said just that. I could have talked about the language of the original bill, which was

quite a short bill. I did not do that, and Senator Fraser's explanation helps clear the record, and I thank her for that.

On motion of Senator Fraser, debate adjourned.

• (1640)

## KYOTO PROTOCOL IMPLEMENTATION BILL

THIRD READING—MOTION IN AMENDMENT—  
DEBATE CONTINUED—  
VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Trenholme Counsell, for the third reading of Bill C-288, to ensure Canada meets its global climate change obligations under the Kyoto Protocol;

And on the motion in amendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Angus, that Bill C-288 be not now read a third time but that it be amended:

(a) in clause 3, on page 3, by replacing line 19 with the following:

"Canada makes all reasonable efforts to take effective and timely action to meet";

(b) in clause 5,

(i) on page 4,

(A) by replacing line 2 with the following:

"to ensure that Canada makes all reasonable efforts to meet its obligations",

(B) by replacing line 6 with the following:

"ance standards for vehicle emissions that meet or exceed international best practices for any prescribed class of motor vehicle for any year", and

(C) by adding after line 13 the following:

"(iii.2) the recognition of early action to reduce greenhouse gas emissions, and",

(ii) on page 5,

(A) by replacing line 9 with the following:

"(a) within 10 days after the expiry of each",

(B) by replacing line 23 with the following:

"first 15 days on which that House is sitting", and



(C) by replacing lines 26 and 27 with the following:

“each House of Parliament is deemed to be referred to the standing committee of the Senate and the House of Commons that”;

(c) in clause 6, on page 6, by adding after line 29 the following:

“(3) For the purposes of this Act, the Governor-in-Council may make regulations restricting emissions by “large industrial emitters”, persons that the Governor-in-Council considers are particularly responsible for a large portion of Canada’s greenhouse gas emissions, namely,

(a) persons that are part of the electricity generation sector, including persons that use fossil fuels to produce electricity;

(b) persons that are part of the upstream oil and gas sector, including persons that produce and transport fossil fuels but excluding petroleum refiners and distributors of natural gas to end users; and

(c) persons that are part of energy-intensive industries, including persons that use energy derived from fossil fuels, petroleum refiners and distributors of natural gas to end users.”;

(d) in clause 7,

(i) on page 6,

(A) by replacing line 32 with the following:

“that Canada makes all reasonable attempts to meet its obligations under”, and

(B) by replacing line 38 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 7, by replacing line 4 with the following:

“(3) In ensuring that Canada makes all reasonable attempts to meet its”;

(e) in clause 9,

(i) on page 7, by replacing line 33 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 8,

(A) by replacing line 3 with the following:

“Minister considers appropriate within 30 days”, and

(B) by replacing line 7 with the following:

“(1) or on any of the first fifteen days on which”;

(f) in clause 10,

(i) on page 8,

(A) by replacing line 9 with the following:

“10. (1) Within 180 days after the Minister”,

(B) by replacing line 11 with the following:

“tion 5(3), or within 90 days after the Minister”, and

(C) by replacing line 38 with the following:

“(a) within 15 days after receiving the”, and

(ii) on page 9,

(A) by replacing line 6 with the following:

“Houses on any of the first 15 days on”, and

(B) by replacing line 9 with the following

“(b) within 30 days after receiving the advice.”;

(g) in clause 10.1, on page 9,

(i) by replacing line 17 with the following:

“and Sustainable Development may prepare a”,

(ii) by replacing line 32 with the following:

“report to the Speakers of the Senate and the House of Commons”, and

(iii) by replacing lines 34 and 35 with the following:

“Speakers shall table the report in their respective Houses on any of the first 15 days on which that House”.

**Hon. J. Trevor Eyton:** Honourable senators, I rise to participate in the debate concerning the proposed amendment to Bill C-288.

In proposing this bill, the Liberals are asking us to completely forget about their failing record on the matter of climate change.

Ten years ago, the Liberal government agreed to the Kyoto Protocol. In the years since, Canada’s greenhouse gas emissions have risen dramatically. In 1997, when the Liberal government signed the Kyoto Protocol, Canada was 22 per cent above the target of reducing our greenhouse gas emissions to 6 per cent below 1990 levels by 2008-12. By the year 2006, when the Liberal government left office, Canada was 33 per cent above its target.

As Environment Minister John Baird stated in his recent appearance before the Standing Senate Committee on Energy, the Environment and Natural Resources:

When the starting pistol went off in what was to be a 15-year marathon to reduce greenhouse gas emissions in Canada under the Liberal government, Canada began to run in the wrong direction.

That is a succinct summation of the Liberal performance.

The raw figures of greenhouse gas emissions while the Liberals were in office demonstrate that we are far away from meeting our Kyoto targets, such that even the leader of the Liberal Party acknowledges it was impossible to achieve.

In the July 1, 2006 *National Post* story entitled "Dion admits Liberal's Kyoto goal impossible: Ex-minister first in party to say 2012 targets are out of reach," Stéphane Dion stated:

In 2008, I will be part of Kyoto, but I will say to the world I don't think I will make it.

Stéphane Dion is not the only Liberal Party luminary to take such a view. For instance, according to the *Montreal Gazette* of February 23, 2007, Eddie Goldenberg, former senior adviser to Jean Chrétien, admitted in a speech delivered that same month to the Canadian Club of London that "the Liberal government itself wasn't even ready at the time with what had to be done."

At the end of the day, honourable senators, where did the environmental posturing leave the former government; where did it leave Canadians? On reflection, in terms of its greenhouse gas mitigation efforts, the former government's primary achievements lay in putting out reports and studies. Their secondary achievement was in raising expectations by making grand commitments. However, when it came to doing something toward actually bringing any of their commitments to fruition, when it came to meaningful and realistic actions, the former government was a disappointment to Canadians.

In 2006, in her last report before leaving her office, the former Commissioner of the Environment and Sustainable Development took issue with the previous government's efforts on climate change. Of the Liberal years in office she stated:

It is disturbing that despite \$6.3 billion in announced funding since 1997, there is still no government-wide consolidated monitoring and reporting of climate change performance and spending.

In other words, at the level of the actual administration of the greenhouse mitigation efforts, the former government did not have its act together or, as former Liberal leadership candidate Mr. Ignatieff stated with respect to the Liberal government's performance on Kyoto, "We didn't get it done."

I would be curious to know what the sponsor of Bill C-288 thinks of Mr. Ignatieff's comments in view of the fact that he supported his leadership candidacy, or what he thinks of Mr. Ignatieff's statement quoted in the *Montreal Gazette* on May 30, 2006 criticizing the Kyoto scheme of buying carbon credits from less polluting countries. He stated then:

We'll clean up Kazakhstan, but we won't clean up downtown Toronto.

Were the Liberals willing to clean up Kazakhstan but not Toronto? If he was wrong, did Senator Mitchell attempt to correct it? Did he offer him any advice on the environment? If so,

did Senator Mitchell inspire him to use the phrase "We didn't get it done"?

Certainly, supporters of Bill C-288 must have a coherent response to these criticisms of Kyoto and their environmental record, or maybe they do not, or maybe they just did not care. Perhaps the Liberal Party has not learned lessons on this file from their time in office. Perhaps, as it seems with Bill C-288, the Liberals are content to continue to play the politics of symbolism with a Kyoto brand, just as they did when they were in government.

Honourable senators, if meeting our Kyoto targets was as easy as the Liberals are suggesting with Bill C-288, why did they not do it when they were in office? The fact is they did not do what they promised. The fact is they did not even come close.

Honourable senators, the Conservative government has been taking steps to correct the dismal Liberal record on climate change. With "Turning the Corner, An action plan to reduce greenhouse gases and air pollution," the Conservative government tabled a realistic and balanced plan to actually make progress on the file.

Senator St. Germain recently put a few facts on the record about this plan that are worth repeating. "Turning the Corner" will put this country on track for absolute greenhouse gas reductions of 20 per cent by 2020. Canada's plan will result in a 60 to 70 per cent reduction of 2006 emissions by 2050, a long-term goal that is consistent with the European Union's proposal for a global target for reductions of 50 per cent by 2050 over 1990 levels and is also consistent with Japan's recent policy statement.

I might add that Budget 2007 invested \$4.7 billion in clean air and water, greenhouse gas reduction, climate change action and environment protection. The Government of Canada is committed to actively participating in the United Nations processes on climate change, but meeting our emission reduction target of 6 per below 1990 levels throughout the period of 2008-12 is simply not possible without imposing severe, even punishing, costs in Canada or, even worse, sending Canadian dollars overseas to buy the equivalent of hot air on the international markets.

Canada cannot meet its Kyoto targets within the prescribed time frame in a fiscally responsible manner. We cannot do in six months what the Liberal government failed to do in 10 years, which was supposed to be completed in 15 years.

Testimony before our committee indicated that cutting greenhouse gas emissions by 33 per cent would lead to deep recession, major job losses, and a significant decline in income for Canadians. Honourable senators, the amendment before us will bring a measure of reason to Bill C-288. In the absence of amendments, it is my view that Bill C-288 should be defeated because it is unrealistic, reckless and irresponsible.

That said, the amendment itself could stand a small refinement, which might make it more acceptable to some honourable senators who apparently were unwilling to accept the notion proposed by witnesses that those who had taken early action to reduce emissions should now receive recognition for those efforts.



• (1650)

# MOTION IN SUBAMENDMENT

**Hon. J. Trevor Eyton:** Accordingly, I move, seconded by the Honourable Senator Tkachuk:

That the motion in amendment be amended by deleting amendment (b)(i)(C).

**Senator Tardif:** Question!

**The Hon. the Speaker *pro tempore*:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** No.

**Some Hon. Senators:** Yes.

**The Hon. the Speaker *pro tempore*:** Will all those in favour of the motion in amendment please say "yea"?

**Some Hon. Senators:** Yea.

**The Hon. the Speaker *pro tempore*:** Will all those opposed to the motion in amendment please say "nay"?

**Some Hon. Senators:** Nay.

**The Hon. the Speaker *pro tempore*:** In my opinion, the "yeas" have it.

*And two honourable senators having risen:*

**The Hon. the Speaker *pro tempore*:** Is there agreement on the time of the vote?

**Hon. Terry Stratton:** If I may, with respect to rule 67(1), (C) and specifically, rule 67(3), as this is a Thursday:

When a standing vote has been deferred, pursuant to section (1) above, on a Thursday and the next day the Senate sits is a Friday, the Chief Government Whip may, from his or her place in the Senate at any time before the time for the taking of the deferred vote, again defer the vote until 5:30 o'clock p.m. on the next day thereafter the Senate sits.

**Hon. Sharon Carstairs:** Honourable senators, I understand we are sitting at six o'clock on Monday. We cannot therefore have a vote at 5:30, so may we have some clarification?

**Senator Stratton:** I would like to explain, if I may. I believe Senator Cowan would confirm we have agreement that the vote will take place at seven o'clock and not 5:30.

Does the Honourable Senator Cowan agree?

**Hon. James S. Cowan:** Yes.

**The Hon. the Speaker *pro tempore*:** The vote will be at seven o'clock on Monday, June 18.

## CRIMINAL CODE

### BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the Honourable Senator Oliver, seconded by the Honourable Senator Johnson, for the third reading of Bill C-277, to amend the Criminal Code (luring a child).—(*Honourable Senator Tardif*)

**An Hon. Senator:** Question.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read the third time and passed.

## BUSINESS OF THE SENATE

**Hon. Donald H. Oliver:** Honourable senators, I would like to revert to Presentation of Reports from Standing or Special Committees.

**The Hon. the Speaker *pro tempore*:** Is leave granted to revert?

**Hon. Sharon Carstairs:** I will give leave if there is not to be a speech, Your Honour.

**The Hon. the Speaker *pro tempore*:** There was a request for an explanation.

**Senator Oliver:** Is leave granted, honourable senators?

**Senator Carstairs:** Honourable senators, I have been asked to give leave. I am prepared to give leave if it is simply to table a report. The last time I gave leave to table a report, it ended up being quite a long speech.

**Senator Oliver:** Not from me.

**Senator Carstairs:** I am prepared, if Senator Oliver is just tabling the report, to give him leave to do so, but if he then follows with a speech, I am not prepared to give him leave.

**The Hon. the Speaker *pro tempore*:** Does the Honourable Senator Oliver plan to table a report?

**Senator Oliver:** I would like to table a report.

**The Hon. the Speaker *pro tempore*:** Does the honourable senator wish to make a speech or simply present a report?

**Senator Oliver:** For a third time, I would like to table a report.

**The Hon. the Speaker *pro tempore*:** Is leave granted that Senator Oliver table a report?

**Senator Cools:** The question has not been answered.

**Senator Carstairs:** Can the honourable senator say yes or no; is he giving a speech following the tabling of the report, or is he not giving a speech following the tabling of the report?

**Senator Cools:** An easy question.

**Senator Smith:** Give the speech another day.

**Senator Oliver:** Under the *Rules of the Senate*, the normal procedure is that if a report is tabled, the Speaker says, "When shall this report be taken into consideration?" That is when speeches are normally given.

**The Hon. the Speaker pro tempore:** There is no speech in presentation of reports. Is leave granted, honourable senators, to revert to presentation of reports?

**Hon. Senators:** Agreed.

## BILL TO AMEND CERTAIN ACTS IN RELATION TO DNA IDENTIFICATION

### REPORT OF COMMITTEE

**Hon. Donald H. Oliver,** Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, June 14, 2007

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

### FOURTEENTH REPORT

Your Committee, to which was referred Bill C-18, An Act to amend certain Acts in relation to DNA identification, has, in obedience to the Order of Reference of Wednesday, May 9, 2007, examined the said Bill and now reports the same without amendment but with observations, which are appended to this report.

Respectfully submitted,

DONALD H. OLIVER  
*Chair*

### APPENDIX

## BILL C-18, AN ACT TO AMEND CERTAIN ACTS IN RELATION TO DNA IDENTIFICATION

### Observations to the Report of the Standing Senate Committee on Legal and Constitutional Affairs

Provided that an individual's rights under the *Canadian Charter of Rights and Freedoms* are respected, giving police the tools to utilize DNA fully in the investigation of crime is a worthy objective. Your Committee therefore supports the overall goals and methods of Bill C-18. We do, however, have concerns with some of its details.

We have reservations about the sharing of information found in the National DNA Data Bank with foreign jurisdictions. Our concern is that these jurisdictions may ask for information from the Data Bank in their efforts to resolve offences which are not offences under Canadian law. For example, non-violent political dissent may be considered a criminal act in certain jurisdictions and we do not wish to see the Data Bank facilitating the prosecution of these offences. Therefore, we recommend that one of the criteria for the sharing of information with foreign jurisdictions be that the offence alleged to have been committed in the foreign jurisdiction be considered an indictable offence under Canadian law and that appropriate legislation or regulations be prepared.

Your Committee also has concerns about the ability of the Attorney General to make an *ex parte* application (that is, one without notice to, and in the absence of, the affected individual) in order to correct a clerical error on a DNA order. Given that, in almost all cases, the facially defective order will have already been executed to obtain DNA evidence that may later be used against an individual, the government should consider a future provision by which the affected individual or his or her counsel would either receive prior notice of the application or disclosure that the application has been made and the order modified.

Your Committee notes the last recommendation of the Auditor General of Canada in her May 2007 report regarding management of the Forensic Laboratory Services (FLS). She stated that the RCMP should ensure that parliamentarians receive the information that they require in order to hold government to account for the performance of the FLS. Your Committee emphasizes that Parliament needs full and transparent reporting by the government in order to monitor and evaluate the cumulative effect that successive pieces of legislation have had, not only on the FLS, but on the operation of the DNA databank and its impact on individuals.

The *DNA Identification Act* came fully into force on 30 June 2000. Section 13 of the Act required a review of the provisions and operation of the Act within five years, to be undertaken by any committee of the Senate, of the House of Commons or of both Houses of Parliament. To date, no such review has been undertaken. Your Committee is concerned that two bills that originally set up a DNA data bank and now alter the manner in which it is operated and used will have been adopted by Parliament without a fundamental review of the system taking place. A review of the DNA system is urgently required, so that Parliament may determine what, if any, changes are required to improve it and the manner in which it is used.

**The Hon. the Speaker pro tempore:** Honourable senators, when shall this bill be read the third time?

**Senator Oliver:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(g), I move that the report be placed on the Orders of the Day for consideration later this day.

**The Hon. the Speaker pro tempore:** Is leave granted, honourable senators?



**An Hon. Senator:** No.

On motion of Senator Oliver, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

### FOURTH REPORT OF COMMITTEE— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Nolin, for the adoption of the fourth report of the Standing Committee on Rules, Procedures and the Rights of Parliament (amendments to the *Rules of the Senate*—questions of privilege and points of order), presented in the Senate on April 18, 2007.—(*Honourable Senator Cools*)

**Hon. Wilbert J. Keon:** I move adoption of the report standing in my name.

**The Hon. the Speaker pro tempore:** Is it your pleasure to adopt the motion?

**Hon. Anne C. Cools:** Are we on Order No. 13?

**Senator Tardif:** Yes, we are.

**Senator Cools:** That is resuming debate for the adoption of the fourth report that is being held in my name?

**Senator Comeau:** Yes, it is.

**The Hon. the Speaker pro tempore:** That is right.

**Senator Cools:** I do not understand. Why is someone else moving a motion that is not standing in their name if I am holding the adjournment?

**Senator Comeau:** It is at day 14.

**Senator Cools:** Honourable senators, I would like to stand that debate. It is it not day 15; there is no problem.

**The Hon. the Speaker pro tempore:** Does the Honourable Senator Cools wish to adjourn the debate?

**Senator Cools:** The motion is already standing in my name. It does not need to be adjourned; it is already adjourned. It has been standing in my name because I plan to speak to it.

**Hon. Consiglio Di Nino:** Honourable senators, this is —

• (1700)

**Senator Cools:** Honourable senators, if Senator Di Nino speaks now, that would have the effect of closing the debate. As I said, perhaps if honourable senators want me to do it, I move the adjournment of the debate.

**Senator Di Nino:** I would like to ask a question.

**The Hon. the Speaker pro tempore:** Senator Cools has adjourned the debate.

**Senator Di Nino:** It has not been moved yet.

**Senator Cools:** I certainly moved it.

**Senator Di Nino:** It has not been approved yet. I would like to ask a question. Her Honour has not yet put the question.

**Senator Cools:** Your Honour, I move the motion for adjournment.

**Senator Di Nino:** Honourable senators, all I want to do is ask a question of Senator Cools.

**Senator Cools:** The honourable senator did not say so.

**Senator Di Nino:** That is what I said: I want to ask a question.

**Senator Cools:** I do not wish to begin and lose any of that time. The 15 minutes that I have is so brief.

**Senator Di Nino:** Does the honourable senator refuse to answer my question?

**Senator Cools:** I have not refused to answer anything. I am sure the honourable senator can await what I have to say with interest, and I will be happy to answer then, when I rise to speak on the question.

**Senator Di Nino:** Let the record show that Senator Cools refused to answer my question.

**Senator Cools:** The record shows a lot of nonsense. I am sure it can show a little bit more.

On motion of Senator Cools, debate adjourned, on division.

## THE SENATE

### MOTION TO URGE CONTINUED DIALOGUE BETWEEN PEOPLE'S REPUBLIC OF CHINA AND THE DALAI LAMA—MOTIONS IN AMENDMENT AND SUBAMENDMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Andreychuk:

That the Senate urge the Government of the People's Republic of China and the Dalai Lama, notwithstanding their differences on Tibet's historical relationship with China, to continue their dialogue in a forward-looking manner that will lead to pragmatic solutions that respect the Chinese constitutional framework, the territorial integrity of China and fulfill the aspirations of the Tibetan people for a unified and genuinely autonomous Tibet;

And on the motion in amendment of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Corbin, that the motion be not now adopted but that it be amended immediately following the word "of" in the first line by eliminating all the words in the rest of the motion and by replacing them with the following:

"Canada and in particular the Foreign Affairs Minister to have discussions with the Foreign Minister of the People's Republic of China regarding the Dalai Lama and the aspirations of the Tibetan people."

And on the subamendment of the Honourable Senator Di Nino, seconded by the Honourable Senator Cowan, that the motion in amendment be amended immediately following the words "Canada and in particular the Foreign Affairs Minister to" by eliminating all subsequent words and replacing them with the following:

"encourage the Government of the People's Republic of China and the Dalai Lama, notwithstanding their differences on Tibet's historical relationship with China, to continue their dialogue in a forward-looking manner that will lead to pragmatic solutions that respect the Chinese constitutional framework, the territorial integrity of China and fulfill the aspirations of the Tibetan people for a unified and genuinely autonomous Tibet."—(*Honourable Senator Tardif*)

**Hon. Sharon Carstairs:** Honourable senators, I had hoped that, by my amendment last week, we could resolve any disagreements on Motion No. 140. Unfortunately, I was not successful with that. Senator Di Nino has introduced a subamendment that, with the exception of directing our government, rather than China, returns the motion to its original form. Therefore, honourable senators, I must take some time to tell this chamber why I still have concerns with Senator Di Nino's motion.

It is fair to say that most of us have little detailed knowledge of China and its Constitution. Those who have participated in the Canada-China Inter-Parliamentary Group perhaps have greater knowledge. However, China is a closed society, and outsiders still, for the most part, see what the Government of China wants us to see.

I have been to China and I studied Chinese history at the master's level, but I do not know China. Similarly, I do not know very much about Tibet. I have great respect for the Dalai Lama as a man and as a religious leader, but I know little about his political activity or his ability to be the best person to negotiate with China to recognize rights for Tibet. Therefore, honourable senators, I have a dilemma. I have given my amendment, which would narrow the motion considerably and give me a comfort level. I cannot support the subamendment.

Honourable senators, I do recognize the importance of this motion to Senator Di Nino and I do not want to put obstacles in his way. However, I did not like his original motion, which is why I made an amendment. I do not like his subamendment and I will have to vote against it.

**Hon. Consiglio Di Nino:** Honourable senators, I would like to ask a question. The honourable senator said that I reverted back to the original motion. I thought I had it made it plain that I was quite happy to accept the amendment that withdrew the plea, if you wish, to the Chinese government and the Dalai Lama, which seemed to have been the issue that created some concern. It is not the original motion that I put as an amendment. I have amended it so that the urging is to the Government of Canada and not, as originally, to the Chinese government. The only reference to the Government of China is to urge the Government of Canada to encourage the commencement of dialogue. Does the honourable senator agree that that is the case?

**Senator Carstairs:** As I indicated in my comments, I recognized that the honourable senator had accepted the part of my motion that had to do with urging the Government of China and had agreed that we should, in fact, urge the Government of Canada.

However, the honourable senator has insisted on leaving in his motion:

... to continue their dialogue in a forward-looking manner that will lead to pragmatic solutions that respect the Chinese constitutional framework, the territorial integrity of China and fulfill the aspirations of the Tibetan people for a unified and genuinely autonomous Tibet.

Honourable senators, with the greatest respect, I do not understand the Constitution of China well enough and I do not understand the autonomous ambitions and desires of the people of Tibet. I am quite prepared to pass a motion that urges the Government of Canada, and the foreign minister, in particular, to urge the Government of China and the Dalai Lama to enter into negotiations, but I do not want it restricted in terms of what they should enter into a dialogue about. Therefore, I cannot support Senator Di Nino's motion, and that is why I moved the amendment.

**Senator Di Nino:** The honourable senator has answered my question. I thought she had said that the original motion stood. It was, in effect, as I suggested, by changing the urging to the Government of Canada, not the Chinese government, so I withdraw the question.

On motion of Senator Cools, debate adjourned.

[Translation]

## IMPACT OF CHARTER OF RIGHTS AND FREEDOMS ON RIGHTS OF CANADIANS AND PREROGATIVES OF PARLIAMENT

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Segal calling the attention of the Senate to the impact that the *Charter of Rights and Freedoms* has had these past 24 years on the rights of Canadians and the prerogatives of the Parliament of Canada.—(*Honourable Senator Joyal, P.C.*)



**Hon. Maria Chaput:** Honourable senators, I am pleased to speak today in the debate on Senator Segal's inquiry concerning the impact that the Charter of Rights and Freedoms has had these past 24 years on the rights of Canadians and the prerogatives of the Parliament of Canada.

More specifically, I would like to talk about the impact the Canadian Charter of Rights and Freedoms has had on francophone minorities in Canada.

April 17, 1982 was a turning point in the history of our country that changed the lives of all Canadians who share our typically Canadian values and principles. The adoption of the Canadian Charter of Rights and Freedoms reinvigorated and granted legitimacy to all Canadians who live in minority communities. The adoption of the Charter also became a source of pride for the members of the majority who decided to treat their minority communities with tolerance and respect. The Charter expresses and protects our country's fundamental values, and sets out a vision for a society in which these values are put into practice in everyday life. The values on which our country was built, such as tolerance, respect, justice, linguistic duality and the protection of the most vulnerable, provide a framework within which our country may achieve its full potential. The Charter is much more than just a legal document: it frames and protects Canada's fundamental values and principles.

At the national level, the Charter has become the driving force behind the courts' interpretation and application of rights and freedoms, especially the rights of minority-language communities. The rulings handed down by the Supreme Court are a reflection of the Charter's strength. Clearly, minority official-language groups have benefited primarily from a series of Supreme Court interpretations in various rulings on Charter section 23.

• (1710)

Section 23 gives parents belonging to an official-language minority group a progressive scale of rights. Beginning with the general right to have their children educated in the official language of the minority group to which they belong, where numbers warrant, the linguistic minority groups were given the right to manage their own educational institutions and then the right to have their own schools. Even though official-language minority communities had understood for many, many years that schools could play a key role in their survival, it was section 23 of the Charter that guaranteed them the right to manage their own schools. The Supreme Court's successive interpretations of section 23 enabled minority-language schools to become a reality and play a vital role in the community's full development. While school governance was in the past a reality in only a few Canadian provinces, today there are school systems and schools managed by minority groups in the 10 provinces, the two territories and in Nunavut.

Even though section 23 had an immediate and significant impact on the official-language minority communities, the essence of the rights and liberties that they have been guaranteed is to be found in Charter sections 16 to 20. Section 16 entrenches the equality of the two official languages, section 17 guarantees the right to use English and French in the debates and other proceedings of Parliament, and section 18 requires that the statutes, records and journals of Parliament be printed and

published in both official languages. Section 19 authorizes the use of either English or French in any proceeding in any court established by Parliament. These rights involve primarily choosing the language for the case and the right to address the court in one's preferred language. Section 20 confers the right to use English or French to communicate with any head or central office of an institution of the Parliament or government of Canada. Canadians throughout the country enjoy the same federal protection under all these federal acts and in all federal courts. When a federal tribunal interprets federal legislation, the effect of the interpretation is felt throughout Canada. For example, the courts will soon be ruling on the very nature of the Royal Canadian Mounted Police. As a federal institution, is the RCMP subject to the language obligations set out in sections 16 to 20 of the Charter?

The unwritten and underlying principles on the protection of minority communities in the *Quebec Secession Reference* and cited by the Ontario Court of Appeal in the *Montfort Hospital* case, continue to lead to progress in linguistic rights. Here is what the Supreme Court said about these principles:

Underlying constitutional principles may in certain circumstances give rise to substantive legal obligations... which constitute substantive limitations upon government action. These principles may give rise to very abstract and general obligations, or they may be more specific and precise in nature. The principles are not merely descriptive, but are also invested with a powerful normative force, and are binding upon both courts and governments.

Before this ruling, there was a tendency to see the rights of the two language groups as symmetrical. This Supreme Court ruling gave them an asymmetrical interpretation. In its legitimate defence of French, Quebec can now invoke the concept of the underlying principles established by the Court. Francophones in minority communities are now less in opposition to their Quebec counterparts because these unwritten and underlying principles are also applicable to their situation. The comments by the Supreme Court on the existence and significance of certain underlying constitutional principles, such as the protection rights of minority communities, including linguistic minority communities, may have a crucial impact on language rights. Furthermore, on the basis of the ruling handed down in the *Quebec Secession Reference* in 1988, and the ruling on the *Mahé* case in 1999, the Supreme Court, for the first time and despite the equality rights guaranteed in section 15, clearly stated that the right to equality does not necessarily mean the right to equal treatment. In fact, the Supreme Court emphasized that, in order to reach the objective of ensuring the same high-quality standard of education for the minority as for the majority, minority-language schools could be justified in receiving a greater amount, per student, than that allocated to majority schools. In *Arsenault-Cameron v. Prince Edward Island*, in 2000, the Supreme Court reiterated this idea, writing:

Section 23 is premised on the fact that substantive equality requires that official language minorities be treated differently, if necessary, according to their particular circumstances and needs, in order to provide them with a standard of education equivalent to that of the official language majority.



Thus most minority school systems receive more funding than majority school systems do. Probably the most surprising thing is that the difference is now more widely accepted by the majority groups in the provinces and territories. Their acceptance demonstrates that there has been a sea-change in the attitude of our fellow citizens as a result of Charter of Rights and Freedoms.

Manitoba is not immune to the changes that the Charter has meant at the national level. The French-language community in Manitoba has its own school system — the Division scolaire franco-manitobaine (DSFM). Since 1870, when the province was established, and even more so since 1916, when Manitoba's French schools were abolished, the priority of the francophone community has always been French-language education. The establishment of the DSFM in 1994, which came about as a result of section 23 of the Charter of Rights and Freedoms, was the crowning achievement of all our predecessors' efforts. So our school system can now play a pivotal role in guaranteeing the full development and the vitality of our community.

Any legal decision handed down on the interpretation of the various Charter sections also applies in Manitoba. A case that was decided in another jurisdiction does not have to be retried here. Our French-speaking population enjoys the same federal protection as all other groups in Canada. In terms of federal legislation and in federal courts, our rights are protected in Manitoba. It is not by accident that the Manitoba Court of Appeal now has three bilingual judges. In fact, three of the five Court of Appeal judges are bilingual—something we have never seen before!

The Charter has also had a major influence on the Manitoba legislature. Following the Supreme Court ruling on the *Reference re Public Schools Act (Manitoba)*, the government of Manitoba was obliged to amend its school legislation, despite the fact that education is an area of provincial jurisdiction. After the Charter of Rights and Freedoms was adopted and the first rulings interpreting it were handed down, the Manitoba francophone community began to see a change in the attitude held by the government and the majority community about the French fact. The provincial French Language Services policy, adopted in March 1999, reflects this attitudinal change and is proof of the new open-mindedness about the French-language community in Manitoba. We just have to think back to the debate on the issue in 1982-1983 to see the extent of the change in Manitobans' perception of their francophone community.

In addition to the Charter of Rights and Freedoms and the related case law, the French-language services policy validated the French fact in Manitoba. More and more, Manitobans understand that the existence of the in and who the francophone community is an asset for the all Manitobans. Rather than being viewed as a mere lobby group that costs a lot of money, the francophone community is gradually coming to be seen as a special and unique part of Manitoba's cultural mosaic that contributes to the social fabric of the province and to the building of Manitoba's society. This new legitimacy has an impact on the public and political debate with the result that the francophone community in Manitoba is now more readily accepted as an asset for the province, one that makes a substantial contribution to its social, cultural and economic development. It is also because of this new legitimacy that more and more francophiles are interested in French and want not only to learn it, but also to contribute to its survival.

Finally, despite all the challenges we have had to face in the past, since the Charter of Rights and Freedoms was adopted, we have a new zest for life, a reason to believe in our future and a much more optimistic outlook for our community's survival and advancement. The protection of our language rights, now entrenched in the Charter, tells us that our children and our grandchildren will be able to live in French in Manitoba without having to work to overcome the same obstacles and to rise above the same challenges as their parents and their grandparents did. As a community, we have found a new pride in being French-speaking. The time has passed when we only dared to speak French in our homes and churches. We have come out of the closet and we are less and less timid about using our beautiful language. Our new pride allows us to take our place as full citizens of this beautiful country — Canada!

On motion of Senator Tardif, debate adjourned.

• (1720)

## CONTRIBUTIONS OF THE HONOURABLE HOWARD CHARLES GREEN TO CANADIAN PUBLIC LIFE

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Murray, P.C., calling the attention of the Senate to issues concerning the faithful and exemplary service to Canada, during his entire adult lifetime, of the late Honourable Howard Charles Green of British Columbia. (*Honourable Senator Stratton*)

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, Senator Stratton wanted to speak this afternoon on this inquiry. Unfortunately, he was not able to be here.

Therefore, I move the adjournment of the debate in his name until next Monday.

On motion of Senator Comeau, for Senator Stratton, debate adjourned.

[English]

## CANADA'S COMMITMENT TO DARFUR, SUDAN

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Dallaire calling the attention of the Senate to the situation in the Darfur region of Sudan and the importance of Canada's commitment to the people of this war-torn country.—(*Honourable Senator Oliver*)

**Hon. Donald H. Oliver:** Honourable senators, I rise today to speak to the inquiry of the Honourable Senator Dallaire calling the attention of the Senate to the situation in the Darfur region of Sudan and the importance of Canada's commitment to the people of this war-torn country.



This debate brings together two subject areas in which I have a very strong personal interest: human rights and the struggle for treatment in Africa. These are areas of interest that date back to my days as a student. That was the time that I began to explore these issues firsthand as I spent a summer travelling in northern Ethiopia, an area bordering on Sudan. My work took me across the great country of South Africa where I was a United Nations observer at the first democratic elections, in 1994, the same election that saw Nelson Mandela become president. This September I will return to Ethiopia to speak on human rights during the nation's millennium celebrations.

It is vital that we raise awareness about what is happening in Darfur as well as encouraging debate about Canada's role in helping the people of this region. This motion is an important part of that process.

Conflict in this region of Africa is not new. The fighting in Darfur has gone on for four long years and is spilling over to neighbouring Chad. Sudan has endured close to half a century of civil war and instability. The much lauded Darfur Peace Agreement, or DPA, signed a year ago between the Sudanese government and only one of the rebel factions involved in the fighting has amounted to very little and has brought no relief to civilians who bear the brunt of the conflict.

The United Nations and the African Union have more recently agreed to a proposal to triple the number of peacekeepers in Darfur to a force of 23,000 soldiers and police that will be allowed to launch pre-emptive attacks to stop the violence and to help protect civilians in the region. However, the final decision remains with Khartoum.

According to last week's *Brisbane Times*, Sudan's UN ambassador told reporters that his government would study the report when it arrived and would remark on it as soon as possible. He offered assurances that, "it will not take months."

Frankly, I am not optimistic. The President of Sudan, Omar al-Bashir, has stalled implementation of the hybrid force, the last part of the three-phase UN plan to back up African troops. The president has allowed the first two phases, but is refusing to go along with phase three arguing that he would only allow larger African forces with technical and logistical support from the UN. In response, the AU and UN said they would make every effort to keep the hybrid force predominantly African as demanded by the Sudanese president.

As the political stalemate blocks efforts for change, the carnage is worsening according to well known *New York Times* journalist Nicholas Kristof. As he explained to Cornell University last month, the more insecure the situation becomes, the more aid groups leave. In the last several weeks alone, seven aid groups have pulled out of the region near Chad.

To make matters worse, this conflict is not the only problem afflicting the region. Sudan is the largest nation in a continent that has the highest level of poverty in the world. Please allow me to quote from last February's report from the Standing Senate Committee on Foreign Affairs and International Trade which painted a bleak backdrop to the worsening situation in Darfur.

Thirty-six of the world's forty-nine least developed countries are located in Africa, with many of these countries, especially the most plagued with HIV/AIDS, having moved backwards in terms of key social indicators. Despite the continent's vast economic potential, Africa continues to be wracked with famine and malnutrition, high infant mortality and an average life expectancy of just 43 years. Communicable diseases such as malaria and tuberculosis, but particularly HIV/AIDS, have reached epidemic levels in many African countries that they are reversing any gains in economic development and threatening the future stability of the countries in question.

Honourable senators, our response must be a rational analysis of how best to proceed in the face of these almost insurmountable challenges. Let me begin with a review of what we are already doing in the region. In part, I want to correct any impression that we are doing little by standing idly by as hundreds of thousands suffer. In fact, this government has shown in words and in actions that it is deeply concerned with the situation in Darfur. Canada is the third largest contributor to the African Union mission in Sudan and we have been on the ground in that country for some time. We are providing 3-D assistance, that is help in the areas of diplomacy, defence and development.

Canada strongly supports current efforts led by the African Union and the United Nations to seek a political and peaceful solution to the conflict in Darfur by re-establishing a political process involving the parties to the DPA and the rebel movements that do not support the agreement.

As honourable senators are aware, we were present as observers at the talks that lead up to the agreement. We worked closely with our counterparts from the African Union, the European Union, the United Kingdom and the United States during these negotiations.

Canada provided important financial, technical and diplomatic support to the AU throughout the peace process. We are also a leader in championing the inclusion of women in the peace talks and supported the AU in efforts to integrate gender concerns into the negotiations.

We have worked with other countries at the UN to ensure the Security Council fulfills its responsibilities in addressing the conflict in Darfur. This includes support for resolution 1706, which authorizes the use of "all necessary means" to protect UN personnel and civilians. This is a clear test of the principle of responsibility to protect, endorsed by both the UN General Assembly and the UN Security Council. The responsibility to protect must now move beyond abstract words to clear action.

Last September, at the Ministerial Meeting on the Situation in Sudan at the United Nations, the Minister of Foreign Affairs Peter MacKay said:

Canada urges the Government of Sudan to help us end the suffering of the people of Darfur and bring peace to this region of Sudan by accepting a UN mission. Canada recognizes that there is still a great deal of concern on the part of the Government of Sudan about transition. Ultimately, this is about getting assistance to the people on the ground who are urgently in need. I call on the leaders

of the African nations in the region to add their voices to the global appeal to Sudan to act responsibly and accept UN peacekeepers in Darfur.

Canada has played an important advocacy role with council members, including encouraging the development of a targeted sanctions regime aimed at ending the violence in Darfur and ensuring all relevant parties in Sudan are held accountable. We are participating in both the United Nations peacekeeping efforts in southern Sudan and contributing to the African Union mission in Darfur. The Canadian Forces has about 45 people working at the AU and the United Nations in Sudan to help bring security and stability to Sudan.

Since 2004, we have contributed \$238 million in support to the African Union's mission in Darfur. We are helping to combat sexual violence and violence against women, an all too common tool of terror.

• (1730)

Since 2005, Canada has pledged over \$135 million to help Sudan, including \$85 million for humanitarian assistance and \$50 million for reconstruction. Most recently, the Canadian International Development Agency, CIDA, committed \$13 million over five years to fund an umbrella project to support the displaced populations and home communities in various areas of Sudan. CIDA's three priorities in Sudan are the reintegration of displaced populations, landmine clearance and governance. CIDA also provides reconstruction support to the Multi-Donor Trust Fund at the World Bank.

Canada's Stabilization and Reconstruction Task Force has been a leader in supporting the political and social consolidation of peace in Sudan under its conflict prevention and peace building program. Through support from the Global Peace and Security Fund, Canada is promoting initiatives in several key areas, which include implementing Sudan's peace agreements, strengthening of the rule of law institutions, and reducing small arms and improving community security.

This year, 2007-08, Canada will provide up to \$23 million worth of support for peace building initiatives. Here on Parliament Hill members of both Houses have set aside partisanship and are working together to help the people of Darfur as well as other areas where genocide is taking place. In December last year, the All-Party Parliamentary Group for the Prevention of Genocide and Other Crimes Against Humanity was formally created. I am pleased that Senator Dallaire, who has a depth of experience to draw on in order to push this issue forward, has been chosen chair of the group. In addition, there are vice-chairs from each party working together on this serious issue.

As honourable senators are aware, the group was formed to raise awareness about genocide, to increase the flow of information to Parliamentarians about genocide prevention and to ensure that we do all that we can to prevent genocide and crimes against humanity. Clearly we have taken a stand in Darfur and we are acting on it. The question remains: Can we do better and do more? The work we are doing in this chamber will help us to respond to that question.

As we engage in this debate and work together to seek further solutions, we need to recognize that first and foremost our role is to protect Canadian interests at home and abroad. This is the deciding principle in setting our priorities and in determining

what action we take. It is what led us to Afghanistan and it is what will colour our decision on how we can best help in Darfur.

Honourable senators, rather than leading us away from Darfur, this principle will direct us to action. We send a strong message to all nations that crimes against humanity will not be tolerated by helping to hold the Sudanese government to account for the protection of its citizens. w Once more I will quote Minister MacKay at the UN, where he said:

The gravity of the crisis in Darfur demands a decisive response from the UN Security Council and from all member states in seeking the implementation of resolution 1706. This is a clear test of the principle of the responsibility to protect, endorsed by both the UN General Assembly and the UN Security Council. The responsibility to protect must now move beyond abstract words to clear action.

*The Responsibility to Protect* exists on paper, honourable senators. It is our duty to ensure that it exists in Darfur and beyond.

We also need to apply the lessons that we have learned in the past. The era of "none is too many" response to atrocities is over. It is time for us to take up the responsibility of punching at our weight level on the world's stage. We are not a superpower but we are a powerful nation and we must take on the duties that come with that position. This is not the first time that we have confronted ethnic cleansing. What did we learn from the former Yugoslavia, from Rwanda, from Auschwitz? We have learned this, at least: Standing idly by as the numbers of dead and tortured mount is not an option. We have learned that we do not have unlimited wealth of resources from which to draw. Currently, we are heavily involved in Afghanistan, and we must make hard decisions about how best to allocate what resources we do have. We have learned that we have some diplomatic clout, something that we can use to pressure other nations into action. In fact, one of our most critical resources in this situation is the link that we have established with other nations. We are in a position to use our influence to pull them into the fray.

Honourable senators, the depth and complexity of problems facing Darfur dictates that in whatever form our continuing commitment will be in that region, it will be for the long term and not the short term. This is a factor that we need to weigh very carefully as we consider our involvement in Darfur. It was something that was raised as part of this debate a couple of weeks ago by Senator Andreychuk when she asked:

What can we constructively do now to support the situation in Darfur? The answer must be based on the fact that our interventions now have to be positive. We cannot go into Darfur so we feel better, and we do not really make a change for the people of Darfur, which has to be an immediate response and a long-term commitment.

Honourable senators, we are heavily involved in the region of Darfur but the time has come to push for more real and lasting change.

On motion of Senator Cowan, debate adjourned.



## THE SENATE

• (1740)

MOTION TO URGE GOVERNMENT TO PROMULGATE  
ITS ENDORSEMENT OF THE PARIS COMMITMENT  
ON CHILD SOLDIERS—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Dallaire, seconded by the Honourable Senator Banks:

That the Senate call on the Government of Canada to widely disseminate its endorsement of the *Paris Commitments to Protect Children from Unlawful Recruitment or Use by Armed Forces or Armed Groups*, known as the Paris Principles and adopted by 58 countries in Paris, France on February 6, 2007; and

That the Senate urge the Government of Canada to take a global leadership role in the campaign of eradicating child soldiers as enunciated in the *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict* (2000) as well as Security Council resolutions 1539 (2004) on Children in Armed Conflict, and 1612 (2005) on Monitoring and Reporting on Violations Against Children in War.—(Honourable Senator Munson)

**Hon. Rod A. A. Zimmer:** Honourable senators, on May 10, our respected colleague, Senator Dallaire, implored us to lend our support for a vitally important mission protecting child soldiers participating in armed conflict around the world. I rise today in support of his motion but before I address this issue, I would like to extend sincere congratulations to Senator Dallaire, upon whom Memorial University of Newfoundland and Labrador conferred the degree of Doctor of Laws, *honoris causa*, on May 23. In his introduction of Senator Dallaire, Dr. John Scott, Memorial's orator, said:

The messenger who stands before you has demonstrated the kind of deep personal courage that challenges us all to want to be free, and to do what it takes to be free.

Having borne witness to unspeakable horrors of which no child should ever be a part, Senator Dallaire understands that as a prosperous and free country Canada has an absolute obligation to assist the unlikely victims of armed conflicts throughout the world. In the case of children under the age of 18 who are broadly referred to as child soldiers, those unlikely victims are boys and girls who act as frontline soldiers, porters who carry heavy loads of ammunition and injured soldiers, spies, scouts and sex slaves.

Honourable senators, in this age of information, statistics are ubiquitous, making it difficult sometimes to assess the true weight of the fact that between 250,000 and 300,000 children under the age of 18 are participating in armed conflict around the world. To put these numbers in relative terms, the higher end of this range is close to three times the entire population of St. John's and approximately one half of the population of Winnipeg. Imagine, if you will, a mid-sized Canadian city populated exclusively with boys and girls who are actively engaged in war.

Many of those who are not forced into service join armed groups because their impoverished families need the income. In the case of refugee children, their physical proximity to areas of conflict makes them particularly vulnerable to recruitment.

Many children are recruited, often forcibly, after becoming separated from their families during the armed conflict. This was the case of Ishmael Beah, outspoken author of a memoir of his experience as a child soldier in Sierra Leone. Mr. Beah, now 26 years old, explained the compulsion to join an armed group in this way:

When you destroy what the child knows — his family, his village, his social structure — when the kid loses everything, the only thing left that is organized are these groups.

Honourable senators, children who are seemingly brought into the fold of armed groups are often plied with drugs and alcohol and used for life-threatening tasks for which they have no training or experience. Then they are shot or left to perish when they are no longer considered useful.

In terms of prevention at the level of the individual child, it has been noted that children who are in school are not in armed groups, and women and girls with food, shelter and water are not compelled to engage in "survival sex." Part of the solution to preventing this form of child abuse entails building a protective environment for children, including providing for their education, reuniting them with family members in cases of conflict-induced separation and providing sustainable livelihoods for children who have been demobilized.

Honourable senators, when we look at the big picture, of course, protection of children can best be achieved by ending armed conflicts. Therefore, diplomatic and development efforts to prevent armed conflict and resolve it wherever it occurs continue to be essential.

The use of child soldiers in armed conflict is a major human rights problem with which all Canadians should be concerned, and which will surely continue to hit home in some very direct ways. As millions of Afghan refugees return home to face national unemployment rates hovering around 50 per cent, Canadian troops are sure to witness and experience loss of life as the Taliban lure desperate children into service as insurgents and suicide bombers.

As Senator Dallaire explained, the solution to this highly complex, global problem requires research which aims to subtract children from the doctrine of war. To that end, this year he and the team are going to Africa.

From July 16 to 20, they will carry out a simulation in Accra, Ghana, which will challenge participants as they seek collaborative interventions to prevent child recruitment or abduction. The third phase of the child soldiers' project will take place in the Democratic Republic of the Congo. To ensure that a wide range of voices and experiences are heard, participants will include over 50 experts from the military, academic and humanitarian fields from Africa, North America, Europe and Asia. However, as Senator Dallaire pointed out, although the research and simulation are important in developing solutions to this problem, state action is also vital to eradicating the use of child soldiers.

Honourable senators, in February, Canadian officials joined ministers and representatives of other countries in Paris to reaffirm their collective concern at the plight of children affected by armed conflict. That gathering culminated in the development of the Paris commitments to prevent children from unlawful recruitment or use by armed forces or armed groups.

Canada also asserted its support for this initiative through its ratification, almost seven years ago, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. On that front, last year, the United Nations Committee on the Rights of the Child formally commended Canada for its financial support to numerous agencies and international organizations with programs for children affected by war.

Honourable senators, of course the provision of financial aid and the endorsements of documents such as the Paris commitments are important first steps to addressing this problem. However, Canada has the ability, the experience and the international obligation to take a leadership role in this issue.

I support the proposition of our honourable colleague, Senator Dallaire, that the Department of Foreign Affairs and International Development, together with CIDA and the Department of National Defence, and in conjunction with our international partners, develop a plan for the elimination of the use of child soldiers.

We must also urge our government to participate in the implementation of the UN Security Council resolutions to ensure peacekeeping missions protect the rights of children, and to monitor reports on the rights of children in armed conflict.

Senator Dallaire poignantly stated a truth which bears repeating: These children engaged in armed conflicts should be learning, playing and aspiring to great things in life. I find myself reflecting on his question about what the future can possibly hold for children who are being abused, forced to kill and rejected by communities, and who are living with the guilt of being an instrument of death and sexual abuse.

Honourable senators, it is not the nature of a child to wield an AK-47 or provide sex on demand. Canada must fight this gross abuse of human rights through strong leadership; and I, to this end, join Senator Dallaire in urging the government to take immediate action.

**Hon. Jim Munson:** Honourable senators, first, I thank Senator Zimmer for his intervention. It is a very positive intervention on behalf of Senator Dallaire and others who have spoken on this issue.

I know it is late in the day. I will not be that long, but I would like to speak, honourable senators, to follow up on the motion of our colleague, Senator Dallaire, regarding the need for the Government of Canada to show leadership in global efforts to end the detestable practice of using children in combat situations.

Senator Dallaire spoke to us about his own firsthand experience with child soldiers. I have a small story to tell. I worked as a journalist in Cambodia during the war there in the late 1980s and early 1990s. Like many journalists looking for a story in a war

zone, I wanted to go where the action was. To do that, we were assigned guides. The two guides were experienced in a war zone and they were armed. Both had been wounded. One had lost an arm; the other had a wooden leg. These guides in many ways were no different from other guides that had taken me into war zones around the world. The difference, though, was that these guides were children about 12 or 13 years of age.

I was just thinking, when I was in Northern Ireland once with one of the minders when I was working with CTV, that we were in a different area. These are not children of war, but teenagers brought into war. These young kids, who did not know they were young kids, had balaclavas on. We were rounding a corner and I remember this gentleman who was with us, whose name was Bobby May. He said that he would take care of foreign correspondents. We were terrified of these two men who came around the corner with machine guns. He went over to them, looked at them, and he said, "Go home to your mother, boys." He took off their balaclavas and there they were 15 and 16. They looked like men and terrified us, but they were out in the night doing what they thought was right thing, defending the issues in Northern Ireland. These memories came back to me when I heard both Senator Zimmer and Senator Dallaire speak.

Vis-à-vis Cambodia, I wonder where those boys are today. They would be in maybe their late 30s now. I wonder, are they still alive? I think it is quite likely that they were killed.

As we know, child soldiers are often put on the front line of conflicts, sometimes even unarmed — true cannon fodder. They are used to place or to unearth land mines. Cambodia was infected with land mines. I think it is entirely likely that my young guides, given their missing limbs, were already the victims of land mines when I met them. However, trying to stay positive and say that these young children, these young child soldiers are still alive, what kind of citizens are they likely to be?

We know that child soldiers are often left, as these boys were, physically disabled and psychologically traumatized. Child soldiers are denied education and skills training and are often rejected by their former communities. The struggle to adapt to a peaceful society is difficult for them. Many are drawn to violence and crime and continue the tragic circle of conflict that we see all over the world.

• (1750)

Senator Dallaire urges our government to take action. Let us start with active support of the Paris commitment on child soldiers. The Paris principles, based on international law, underline the importance of preventing the recruitment of children, the need to protect them, to release them from Armed Forces or groups, and to ensure their integration into civilian life.

This will not be easy to do, remember what Senator Dallaire said: There are currently between 250,000 and 300,000 children in armed conflicts in 53 countries around the world.

Honourable senators, as Canadians, we have our work cut out for us.

[Translation]

Obviously this situation requires a global response.



We need an approach that focuses on children and brings civil society together with humanitarian, emergency intervention, peacekeeping and development efforts.

That is where Canada could play a role. We are a middle power that is known for its peacekeeping contributions. We are involved in several countries where child soldiers are used, including Afghanistan, where an estimated 8,000 children figured among the insurgent forces in 2005.

[English]

Honourable senators, if wars were not bad enough, it seems that modern wars now involve children to a much greater extent than they did before. We should remember that it is not just so-called rebel forces that use child soldiers. Information from the United Nations High Commissioner for Refugees points to evidence that an increasing number of governments are recruiting children as soldiers. Some argue that the growing number of children in combat is due to high poverty levels, rising orphan rates, and smaller and lighter arms, weapons that are light and small enough for children to use.

Others argue that refugee camps, especially in Africa, with their large concentrations of children, many orphaned, are a pool of potential fighters that rebel groups and government forces alike infiltrate.

[Translation]

Honourable senators, the United Nations says that roughly two million children died in armed conflict in the past decade. Three times as many children sustained injuries or physical disabilities, often because of a land mine. It is clear that we must take action if we hope to live in peace in the future.

[English]

In closing, honourable senators, it saddens me to think of these child soldiers who guided me through the Cambodian jungle almost 20 years ago, and to consider what their lives might be like today if, indeed, they are alive. It saddens me even more to think that this problem is getting worse and that, even if these children have grown up to become men, tens of thousands of other children around the world have been born since then to take their place. That is something for all honourable senators to think about.

On motion of Senator Tkachuk, debate adjourned.

#### STUDY ON PRESENT STATE AND FUTURE OF AGRICULTURE AND FORESTRY

##### INTERIM REPORT OF AGRICULTURE AND FORESTRY COMMITTEE ADOPTED

**Hon. Joyce Fairbairn**, pursuant to notice of June 12, 2007, moved:

That the third report of the Standing Senate Committee on Agriculture and Forestry entitled *Agriculture and Agri-Food Policy in Canada: Putting Farmers First!* tabled in the Senate on June 21, 2006 be adopted.

She said: Honourable senators, if you will give me fewer than five minutes, I will be quick.

In June 2006, the Standing Senate Committee on Agriculture and Forestry produced an interim report entitled *Agriculture and Agri-Food Policy in Canada: Putting Farmers First!*, which may have been the first time they ever got their names at the beginning of a report.

The report provides a brief overview of the farm income crisis. It makes a call for strategic action to put Canadian agriculture in a better situation so that it will be able to help to curb the impact on Canada's rural communities and take advantage of future opportunities.

The members of the committee made only two recommendations. The first one called for the federal government to implement a direct payment program over the next four years with payments calculated on the basis of historical yield and acreage. This type of payment was recommended in order to give farmers much needed certainty and stability when it comes to agricultural support payments so that they can better plan for the future.

The second recommendation called for the federal government to develop a Canadian farm bill in which elements such as improving the position of producers in the value-added chain, fostering the use of biofuels and research and development, recognizing social and environmental goods associated with agriculture, encouraging value-added agriculture and adopting an aggressive trade strategy that benefits farmers through the WTO and bilateral agreements are better integrated and more focused toward farmers than is the current agricultural policy framework.

I hope that we will see a response to this report, especially the farm bill, in the near future.

Motion agreed to and report adopted.

[Translation]

#### ADJOURNMENT

Leave having been given to revert to Notices of Motion:

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Monday, June 18, 2007, at 6 p.m.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Some Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Monday, June 18, 2007, at 6 p.m.

## THE SENATE OF CANADA

## PROGRESS OF LEGISLATION

(indicates the status of a bill by showing the date on which each stage has been completed)

## (1st Session, 39th Parliament)

Thursday, June 14, 2007

(\*Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Houses of Parliament have been notified of the declaration.)

GOVERNMENT BILLS  
(SENATE)

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-2	An Act to amend the Hazardous Materials Information Review Act	06/04/25	06/05/04	Social Affairs, Science and Technology	06/05/18	0	06/05/30	07/03/29	7/07
S-3	An Act to amend the National Defence Act, the Criminal Code, the Sex Offender Information Registration Act and the Criminal Records Act	06/04/25	06/06/22	Legal and Constitutional Affairs	06/12/06	0 observations + 1 at 3 <sup>rd</sup>	07/02/15	07/03/29	5/07
S-4	An Act to amend the Constitution Act, 1867 (Senate tenure)	06/05/30	07/02/20	(subject-matter 06/06/28 Special Committee on Senate Reform)	Report on subject-matter 06/10/26	2 amends 1 recom. observations			
				Bill 07/02/20 Legal and Constitutional Affairs	Report on bill 07/06/12				
S-5	An Act to implement conventions and protocols concluded between Canada and Finland, Mexico and Korea for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	06/10/03	06/10/31	Banking, Trade and Commerce	06/11/09	0	06/11/23	06/12/12	8/06
S-6	An Act to amend the First Nations Land Management Act	07/04/25	07/05/15	Aboriginal Peoples	07/05/31	0	07/05/31		



**GOVERNMENT BILLS  
(HOUSE OF COMMONS)**

<b>No.</b>	<b>Title</b>	<b>1<sup>st</sup></b>	<b>2<sup>nd</sup></b>	<b>Committee</b>	<b>Report</b>	<b>Amend</b>	<b>3<sup>rd</sup></b>	<b>R.A.</b>	<b>Chap.</b>
C-2	An Act providing for conflict of interest rules, restrictions on election financing and measures respecting administrative transparency, oversight and accountability	06/06/22	06/06/27	Legal and Constitutional Affairs	06/10/26 Report amended 06/11/06	156 Observations + 3 at 3 <sup>rd</sup> (including 1 amend. to report) 06/11/09 Total 158	06/11/09 Message from Commons-agree with 52 amendments, disagree with 102, agree and disagree with 1, and amend 3 06/11/21  Referred to committee 06/11/23  Report adopted 06/12/07  Message from Commons-agree with Senate amendments 06/12/11	06/12/12	9/06
C-3	An Act respecting international bridges and tunnels and making a consequential amendment to another Act	06/06/22	06/10/24	Transport and Communications	06/12/12	3 observations	06/12/13 Message from Commons-agree with Senate amendments 07/01/30	07/02/01*	1/07
C-4	An Act to amend the Canada Elections Act and the Income Tax Act	06/05/02	06/05/03	Legal and Constitutional Affairs	06/05/04	0	06/05/09	06/05/11	1/06
C-5	An Act respecting the establishment of the Public Health Agency of Canada and amending certain Acts	06/06/20	06/09/28	Social Affairs, Science and Technology	06/11/02	0 observations	06/11/03	06/12/12	5/06
C-8	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2007 ( <i>Appropriation Act No. 1, 2006-2007</i> )	06/05/04	06/05/09	—	—	—	06/05/10	06/05/11	2/06
C-9	An Act to amend the Criminal Code (conditional sentence of imprisonment)	06/11/06	07/02/27	Legal and Constitutional Affairs	07/05/03	0 observations	07/05/16	07/05/31*	12/07

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-10	An Act to amend the Criminal Code (minimum penalties for offences involving firearms) and to make a consequential amendment to another Act	07/05/30							
C-11	An Act to amend the Canada Transportation Act and the Railway Safety Act and to make consequential amendments to other Acts	07/03/01	07/03/28	Transport and Communications	07/05/17 Report amended 07/05/30	2 observations	07/05/31 Message from Commons-agree with Senate amendments 07/06/14		
C-12	An Act to provide for emergency management and to amend and repeal certain Acts	06/12/11	07/03/28	Special Committee on the Anti-terrorism Act	07/06/05	0	07/06/06		
C-13	An Act to implement certain provisions of the budget tabled in Parliament on May 2, 2006	06/06/06	06/06/13	National Finance	06/06/20	0	06/06/22	06/06/22*	4/06
C-14	An Act to amend the Citizenship Act (adoption)	07/06/05							
C-15	An Act to amend the Agricultural Marketing Programs Act	06/06/06	06/06/13	Agriculture and Forestry	06/06/15	0	06/06/20	06/06/22*	3/06
C-16	An Act to amend the Canada Elections Act	06/11/06	06/11/23	Legal and Constitutional Affairs	07/02/15	0 + 1 at 3rd	07/03/28 Message from Commons disagreeing with Senate amendment 07/04/27  Senate does not insist on its amendment 07/05/01	07/05/03*	10/07
C-17	An Act to amend the Judges Act and certain other Acts in relation to courts	06/11/21	06/12/11	National Finance	06/12/12	0 observations	06/12/13	06/12/14*	11/06
C-18	An Act to amend certain Acts in relation to DNA identification	07/03/29	07/05/09	Legal and Constitutional Affairs	07/06/14	0 observations			
C-19	An Act to amend the Criminal Code (street racing) and to make a consequential amendment to the Corrections and Conditional Release Act	06/11/02	06/11/21	Legal and Constitutional Affairs	06/12/14	0 observations	06/12/14	06/12/14*	14/06
C-22	An Act to amend the Criminal Code (age of protection) and to make consequential amendments to the Criminal Records Act	07/05/08							



No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-23	An Act to amend the Criminal Code (criminal procedure, language of the accused, sentencing and other amendments)	07/06/14							
C-24	An Act to impose a charge on the export of certain softwood lumber products to the United States and a charge on refunds of certain duty deposits paid to the United States, to authorize certain payments, to amend the Export and Import Permits Act and to amend other Acts as a consequence	06/12/06	06/12/12	National Finance (withdrawn) 06/12/13 Foreign Affairs and International Trade	06/12/14	0 observations	06/12/14	06/12/14*	13/06
C-25	An Act to amend the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and the Income Tax Act and to make a consequential amendment to another Act	06/11/21	06/11/28	Banking, Trade and Commerce	06/12/14	0 observations	06/12/14	06/12/14*	12/06
C-26	An Act to amend the Criminal Code (criminal interest rate)	07/02/07	07/02/28	Banking, Trade and Commerce	07/04/19	0 observations	07/04/26	07/05/03*	9/07
C-28	A second Act to implement certain provisions of the budget tabled in Parliament on May 2, 2006	06/12/11	07/01/31	National Finance	07/02/13	0	07/02/14	07/02/21*	2/07
C-31	An Act to amend the Canada Elections Act and the Public Service Employment Act	07/02/21	07/03/21	Legal and Constitutional Affairs	07/06/05 Report amended 07/06/12	10 + 2 at 3rd	07/06/14		
C-34	An Act to provide for jurisdiction over education on First Nation lands in British Columbia	06/12/06	06/12/11	Aboriginal Peoples	06/12/12	0	06/12/12	06/12/12	10/06
C-35	An Act to amend the Criminal Code (reverse onus in bail hearings for firearm-related offences)	07/06/05							
C-36	An Act to amend the Canada Pension Plan and the Old Age Security Act	07/03/20	07/04/17	Banking, Trade and Commerce	07/04/19	0	07/05/01	07/05/03*	11/07
C-37	An Act to amend the law governing financial institutions and to provide for related and consequential matters	07/02/28	07/03/21	Banking, Trade and Commerce	07/03/29	0	07/03/29	07/03/29	6/07
C-38	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007 ( <i>Appropriation Act No.2, 2006-2007</i> )	06/11/29	06/12/05	—	—	—	06/12/06	06/12/12	6/06
C-39	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007 ( <i>Appropriation Act No.3, 2006-2007</i> )	06/11/29	06/12/05	—	—	—	06/12/06	06/12/12	7/06
C-40	An Act to amend the Excise Tax Act, the Excise Act, 2001 and the Air Travellers Security Charge Act and to make related amendments to other Acts	07/05/15	07/06/05	Banking, Trade and Commerce	07/06/07	0	07/06/14		

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-46	An Act to provide for the resumption and continuation of railway operations	07/04/18	07/04/18	Committee of the Whole	07/04/18	0	07/04/18	07/04/18*	8/07
C-47	An Act respecting the protection of marks related to the Olympic Games and the Paralympic Games and protection against certain misleading business associations and making a related amendment to the Trade-marks Act	07/06/14							
C-48	An Act to amend the Criminal Code in order to implement the United Nations Convention against Corruption	07/05/01	07/05/10	Foreign Affairs and International Trade	07/05/17	0	07/05/29	07/05/31*	13/07
C-49	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007 ( <i>Appropriation Act No.4, 2006-2007</i> )	07/03/26	07/03/27	—	—	—	07/03/28	07/03/29	3/07
C-50	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2008 ( <i>Appropriation Act No.1, 2007-2008</i> )	07/03/26	07/03/27	—	—	—	07/03/28	07/03/29	4/07
C-51	An Act to give effect to the Nunavik Inuit Land Claims Agreement and to make a consequential amendment to another Act	07/06/14							
C-52	An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2007	07/06/13							
C-59	An Act to amend the Criminal Code (unauthorized recording of a movie)	07/06/14							
C-60	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2008 ( <i>Appropriation Act No.2, 2007-2008</i> )	07/06/12							
C-61	An Act to amend the Geneva Conventions Act, An Act to incorporate the Canadian Red Cross Society and the Trade-marks Act	07/06/13							
C-62	An Act to amend the Bankruptcy and Insolvency Act, the Companies' Creditors Arrangement Act, the Wage Earner Protection Program Act and chapter 47 of the Statutes of Canada, 2005	07/06/14							
COMMONS PUBLIC BILLS									
No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-252	An Act to amend the Divorce Act (access for spouse who is terminally ill or in critical condition)	07/03/22	07/04/19	Social Affairs, Science and Technology	07/05/10	0	07/05/29	07/05/31*	14/07
C-277	An Act to amend the Criminal Code (luring a child)	07/03/29	07/05/10	Social Affairs, Science and Technology	07/05/31	0	07/06/14		



No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>d</sup>	R.A.	Chap.
C-280	An Act to Amend the Immigration and Refugee Protection Act (coming into force of sections 110, 111 and 171)	07/05/30							
C-288	An Act to ensure Canada meets its global climate change obligations under the Kyoto Protocol	07/02/15	07/03/29	Energy, the Environment and Natural Resources	07/05/17	0			
C-292	An Act to implement the Kelowna Accord	07/03/22	07/06/06	Aboriginal Peoples					
C-293	An Act respecting the provision of official development assistance abroad	07/03/29	07/05/29	Foreign Affairs and International Trade					
C-294	An Act to amend the Income Tax Act (sports and recreation programs)	07/04/17	07/05/02	National Finance	07/06/06	0	07/06/12		
C-299	An Act to amend the Criminal Code (identification information obtained by fraud or false pretence)	07/05/09							

## SENATE PUBLIC BILLS

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>d</sup>	R.A.	Chap.
S-201	An Act to amend the Public Service Employment Act (elimination of bureaucratic patronage and geographic criteria in appointment processes) (Sen. Ringuette)	06/04/05	06/06/22	National Finance	06/10/03	1	07/05/10		
S-202	An Act to repeal legislation that has not come into force within ten years of receiving royal assent (Sen. Banks)	06/04/05	06/05/31	Legal and Constitutional Affairs	06/06/15	1	06/06/22		
S-203	An Act to amend the Public Service Employment Act (priority for appointment for veterans) (Sen. Downe)	06/04/05	Dropped from the Order Paper pursuant to Rule 27(3) 06/06/08						
S-204	An Act respecting a National Philanthropy Day (Sen. Grafstein)	06/04/05	07/05/29	Legal and Constitutional Affairs					
S-205	An Act to amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	06/04/05	06/10/31	Energy, the Environment and Natural Resources	07/02/14	0	07/04/25		
S-206	An Act to amend the Criminal Code (suicide bombings) (Sen. Grafstein)	06/04/05	06/10/31	Legal and Constitutional Affairs					
S-207	An Act to amend the Criminal Code (protection of children) (Sen. Hervieux-Payette, P.C.)	06/04/05	06/12/14	Human Rights					
S-208	An Act to require the Minister of the Environment to establish, in co-operation with the provinces, an agency with the power to identify and protect Canada's watersheds that will constitute sources of drinking water in the future (Sen. Grafstein)	06/04/06							

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-209	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	06/04/25	06/12/14	Energy, the Environment and Natural Resources	07/05/31	0			
S-210	An Act to amend the National Capital Act (establishment and protection of Gatineau Park) (Sen. Spivak)	06/04/25	06/12/13	Energy, the Environment and Natural Resources	07/06/07	2 observations			
S-211	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	06/04/25	06/05/10	Social Affairs, Science and Technology	06/06/13	0	06/10/17		
S-212	An Act to amend the Income Tax Act (tax relief) (Sen. Austin, P.C.)	06/04/26	Bill withdrawn pursuant to Speaker's Ruling 06/05/11						
S-213	An Act to amend the Criminal Code (cruelty to animals) (Sen. Bryden)	06/04/26	06/09/26	Legal and Constitutional Affairs	06/12/06	1	06/12/07		
S-214	An Act respecting a National Blood Donor Week (Sen. Mercer)	06/05/17	06/10/03	Social Affairs, Science and Technology	06/12/14	0	06/12/14		
S-215	An Act to amend the Income Tax Act in order to provide tax relief (Sen. Austin, P.C.)	06/05/17	07/02/20	National Finance					
S-216	An Act providing for the Crown's recognition of self-governing First Nations of Canada (Sen. St. Germain, P.C.)	06/05/30	06/12/13	Aboriginal Peoples					
S-217	An Act to amend the Financial Administration Act and the Bank of Canada Act (quarterly financial reports) (Sen. Segal)	06/05/30	06/10/18	National Finance					
S-218	An Act to amend the State Immunity Act and the Criminal Code (civil remedies for victims of terrorism) (Sen. Tkachuk)	06/06/15	06/11/02	Legal and Constitutional Affairs					
S-219	An Act to amend the Parliamentary Employment and Staff Relations Act (Sen. Joyal, P.C.)	06/06/27	07/05/31	Rules, Procedures and the Rights of Parliament					
S-220	An Act to protect heritage lighthouses (Sen. Carney, P.C.)	06/10/03	06/11/28	Fisheries and Oceans	06/12/11	16	06/12/14		
S-221	An Act to establish and maintain a national registry of medical devices (Sen. Harb)	06/11/01							
S-222	An Act to amend the Immigration and Refugee Protection Act and to enact certain other measures in order to provide assistance and protection to victims of human trafficking (Sen. Phalen)	07/02/01							
S-223	An Act to amend the Access to Information Act (Sen. Milne)	07/02/15							
S-224	An Act to amend the Access to Information Act and the Canadian Wheat Board Act (Sen. Mitchell)	07/04/17							
S-225	An Act to amend the International Boundary Waters Treaty Act (bulk water removal) (Sen. Carney, P.C.)	07/05/09							



No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-226	An Act to regulate securities and to provide for a single securities commission for Canada (Sen. Grafstein)	07/05/29							
S-227	An Act to amend the Bankruptcy and Insolvency Act (student loans) (Sen. Goldstein)	07/05/29							
S-228	An Act to amend the Non-smokers' Health Act (Sen. Harb)	07/05/30							
S-229	An Act to amend the Income Tax Act and the Excise Tax Act (tax relief for Nunavik) (Sen. Watt)	07/06/13							

## PRIVATE BILLS

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-1001	An Act respecting Scouts Canada (Sen. Di Nino)	06/06/27	06/10/26	Legal and Constitutional Affairs	06/12/06	0	06/12/07	07/02/21*	

## CONTENTS

Thursday, June 14, 2007

PAGE

PAGE

### SENATORS' STATEMENTS

#### World Elder Abuse Awareness Day

Hon. Marjory LeBreton . . . . . 2669

#### The Honourable Dan Hays, P.C.

Tribute.  
Hon. Pierre De Bané . . . . . 2669

#### National Public Service Week

Hon. Donald H. Oliver . . . . . 2670

#### World Elder Abuse Awareness Day

Hon. Maria Chaput . . . . . 2670

#### Confederation Bridge

Tenth Anniversary.  
Hon. Lowell Murray . . . . . 2671

#### National Aboriginal Day

Hon. Francis William Mahovlich . . . . . 2671

### ROUTINE PROCEEDINGS

#### Criminal Code (Bill C-59)

Bill to Amend—First Reading . . . . . 2671

#### Nunavik Inuit Land Claims Agreement Bill (Bill C-51)

First Reading . . . . . 2672

#### Criminal Code (Bill C-23)

Bill to Amend—First Reading . . . . . 2672

#### Canada-Europe Parliamentary Association

Parliamentary Mission to Portugal and Second Part of 2007  
Ordinary Session of Council of Europe, April 12-20, 2007—  
Report Tabled.  
Hon. Lorna Milne . . . . . 2672

### QUESTION PERIOD

#### National Defence

Afghanistan—Agreement for Treatment of Detainees.  
Hon. Céline Hervieux-Payette . . . . . 2672  
Hon. Marjory LeBreton . . . . . 2672

#### Health

Funding for Canadian Hospice Palliative Care Association.  
Hon. Marilyn Trenholme Counsell . . . . . 2673  
Hon. Marjory LeBreton . . . . . 2673  
Palliative Care—Patient Wait Times.  
Hon. Hugh Segal . . . . . 2673  
Hon. Marjory LeBreton . . . . . 2674  
Palliative Care—Audit of Provincial Funding.  
Hon. Hugh Segal . . . . . 2674  
Hon. Marjory LeBreton . . . . . 2674  
Funding for End-of-Life Strategy Program.  
Hon. Sharon Carstairs . . . . . 2674  
Hon. Marjory LeBreton . . . . . 2674

#### Veterans Affairs

Veterans Independence Program—Comments of Prime Minister  
and Minister—Representations of Ms. Joyce Carter.  
Hon. Lorna Milne . . . . . 2674  
Hon. Marjory LeBreton . . . . . 2674  
Hon. Yoine Goldstein . . . . . 2675

#### National Defence

Afghanistan—Status of War.  
Hon. Pana Merchant . . . . . 2675  
Hon. Marjory LeBreton . . . . . 2675

#### Finance

Saskatchewan—Equalization Payments.  
Hon. Robert W. Peterson . . . . . 2675  
Hon. Marjory LeBreton . . . . . 2675  
Hon. Pana Merchant . . . . . 2676

#### Human Resources and Social Development

Conference Board of Canada—Annual Report—Innovation.  
Hon. Claudette Tardif . . . . . 2676  
Hon. Marjory LeBreton . . . . . 2676

#### The Senate

Tribute to Departing Pages.  
The Hon. the Speaker . . . . . 2676

#### Olympic and Paralympic Marks Bill (Bill C-47)

First Reading . . . . . 2677

### ORDERS OF THE DAY

#### Canada Elections Act

Public Service Employment Act (Bill C-31)  
Bill to Amend—Third Reading.  
Hon. Pierre Claude Nolin . . . . . 2677  
Hon. George Baker . . . . . 2677  
Hon. Pierrette Ringuette . . . . . 2679  
Hon. Larry W. Campbell . . . . . 2679

#### Sales Tax Amendments Bill, 2006 (Bill C-40)

Third Reading . . . . . 2680

#### Appropriation Bill No. 2, 2007-08 (Bill C-60)

Second Reading—Debate Adjourned.  
Hon. Nancy Ruth . . . . . 2680

#### Budget Implementation Bill, 2007 (Bill C-52)

Second Reading—Debate Adjourned.  
Hon. W. David Angus . . . . . 2680  
Hon. Tommy Banks . . . . . 2685  
Hon. George Baker . . . . . 2685  
Hon. Serge Joyal . . . . . 2686  
Hon. Claudette Tardif . . . . . 2686  
Hon. Anne C. Cools . . . . . 2688

#### Visitors in the Gallery

The Hon. the Speaker *pro tempore* . . . . . 2688

#### Citizenship Act (Bill C-14)

Bill to Amend—Second Reading—Debate Adjourned.  
Hon. Consiglio Di Nino . . . . . 2688

#### Canada Transportation Act Railway Safety Act (Bill C-11)

Bill to Amend—Message from Commons—  
Senate Amendments Concurred In . . . . . 2690



	PAGE
<b>Bankruptcy and Insolvency Act</b>	
<b>Companies' Creditors Arrangement Act</b>	
<b>Wage Earner Protection Program Act (Bill C-62)</b>	
Bill to Amend—First Reading . . . . .	2690
<b>Criminal Code (Bill C-10)</b>	
Bill to Amend—Second Reading—Debate Adjourned.	
Hon. Terry Stratton . . . . .	2691
<b>National Finance</b>	
Committee Authorized to Meet During Sitzings of the Senate.	
Hon. Gerald J. Comeau . . . . .	2692
<b>Public Sector Integrity Commissioner</b>	
Nomination of Ms. Christiane Ouimet—	
Motion to Refer to Committee of the Whole Adopted.	
Hon. Gerald J. Comeau . . . . .	2692
<b>Study on User Fee Proposal for Spectrum Licence Fee</b>	
Report of Transport and Communications Committee Adopted.	
Hon. David Tkachuk . . . . .	2693
<b>Constitution Act, 1867 (Bill S-4)</b>	
Bill to Amend—Report of Committee—Debate Adjourned.	
Hon. Donald H. Oliver . . . . .	2693
Hon. Anne C. Cools . . . . .	2694
Hon. Joan Fraser . . . . .	2695
<b>Kyoto Protocol Implementation Bill (Bill C-288)</b>	
Third Reading—Motion in Amendment—Debate Continued—	
Vote Deferred.	
Hon. J. Trevor Eyton . . . . .	2696
Motion in Subamendment.	
Hon. J. Trevor Eyton . . . . .	2698
Hon. Terry Stratton . . . . .	2698
Hon. Sharon Carstairs . . . . .	2698
Hon. James S. Cowan . . . . .	2698
<b>Criminal Code (Bill C-277)</b>	
Bill to Amend—Third Reading . . . . .	2698
<b>Business of the Senate</b>	
Hon. Donald H. Oliver . . . . .	2698
Hon. Sharon Carstairs . . . . .	2698

	PAGE
<b>Bill to Amend Certain Acts in Relation to DNA Identification</b>	
<b>(Bill C-18)</b>	
Report of Committee.	
Hon. Donald H. Oliver . . . . .	2699
<b>Rules, Procedures and the Rights of Parliament</b>	
Fourth Report of Committee—Debate Continued.	
Hon. Wilbert J. Keon . . . . .	2700
Hon. Anne C. Cools . . . . .	2700
Hon. Consiglio Di Nino . . . . .	2700
<b>The Senate</b>	
Motion to Urge Continued Dialogue Between People's Republic	
of China and the Dalai Lama—Motions in Amendment	
and Subamendment—Debate Continued.	
Hon. Sharon Carstairs . . . . .	2701
Hon. Consiglio Di Nino . . . . .	2701
<b>Impact of Charter of Rights and Freedoms on Rights</b>	
<b>    of Canadians and Prerogatives of Parliament</b>	
Inquiry—Debate Continued.	
Hon. Maria Chaput . . . . .	2702
<b>Contributions of the Honourable Howard Charles Green</b>	
<b>    to Canadian Public Life</b>	
Inquiry—Debate Continued.	
Hon. Gerald J. Comeau . . . . .	2703
<b>Canada's Commitment to Darfur, Sudan</b>	
Inquiry—Debate Continued.	
Hon. Donald H. Oliver . . . . .	2703
<b>The Senate</b>	
Motion to Urge Government to Promulgate its Endorsement	
of the Paris Commitment on Child Soldiers—Debate Continued.	
Hon. Rod A. A. Zimmer . . . . .	2706
Hon. Jim Munson . . . . .	2707
<b>Study on Present State and Future of Agriculture and Forestry</b>	
Interim Report of Agriculture and Forestry Committee Adopted.	
Hon. Joyce Fairbairn . . . . .	2708
<b>Adjournment</b>	
Hon. Gerald J. Comeau . . . . .	2708
<b>Progress of Legislation</b> . . . . .	2708







*If undelivered, return COVER ONLY to:*  
Public Works and Government Services Canada  
Publishing and Depository Services  
Ottawa, Ontario K1A 0S5





CANADA

# Debates of the Senate

---

1st SESSION

• 39th PARLIAMENT

• VOLUME 143

• NUMBER 109

---

OFFICIAL REPORT  
(HANSARD)

**Monday, June 18, 2007**

—  
**THE HONOURABLE NOËL A. KINSELLA  
SPEAKER**



## CONTENTS

(Daily index of proceedings appears at back of this issue).

---

*Debates and Publications:* Chambers Building, Room 943, Tel. 996-0193

Published by the Senate  
Available from PWGSC – Publishing and Depository Services, Ottawa, Ontario K1A 0S5.  
Also available on the Internet: <http://www.parl.gc.ca>

## THE SENATE

Monday, June 18, 2007

The Senate met at 6 p.m., the Speaker in the chair.

Prayers.

[Translation]

### ROUTINE PROCEEDINGS

#### ABORIGINAL HEALING FOUNDATION

2006 ANNUAL REPORT TABLED

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour of tabling, in both official languages, the 2006 annual report of the Aboriginal Healing Foundation.

• (1805)

[English]

#### QUARANTINE ACT

BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-42, to amend the Quarantine Act.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have not had a chance to consult with the opposite side, but if it is agreeable, I would say later this day.

**The Hon. the Speaker:** Is it agreed, honourable senators?

On motion of Senator Comeau, with leave of the Senate and notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading later this day.

[Translation]

#### INCOME TAX AMENDMENTS ACT, 2006

FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-33, to amend the Income Tax Act, including amendments in relation to foreign investment entities and non-resident trusts, and to provide for the bijural expression of the provisions of that Act.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Comeau, bill placed on the Orders of the Day for second reading for two days hence.

[English]

### BUSINESS OF THE SENATE

COMMITTEES AUTHORIZED  
TO MEET DURING SITTING OF THE SENATE

**Hon. A. Raynell Andreychuk:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Human Rights have the power to sit at 7 p.m. on Tuesday, June 19, 2007, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**Hon. Eymard G. Corbin:** Honourable senators, I have a question for Senator Comeau. Will other committees be allowed to sit during that period?

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** My understanding is that two more committees will probably seek leave to sit at that time.

**Senator Corbin:** Should we not give blanket leave for all committees to sit?

**Senator Comeau:** By all means, with leave of the Senate, for those committees that intend to sit past six o'clock tomorrow night, even though the Senate may then be sitting, I would seek leave to put a motion to do so.

**The Hon. the Speaker:** Honourable senators, is leave granted that all committees that wish to sit tomorrow evening after six o'clock, even though the Senate may be sitting —

**Hon. Anne C. Cools:** Honourable senators, I think leave is requested to put the motion, not to grant permission. It is to allow the suspending of the rule, notwithstanding the rule, so that he may introduce a motion. I believe Senator Comeau thought he was making a motion. Perhaps he should make it clear. The leave is to allow him to move the motion.

• (1810)

**The Hon. the Speaker:** I was making it clear that leave is being requested. Is it perfectly clear, honourable senators?

**Hon. Senators:** Agreed.

Motion agreed to.



**Senator Comeau:** Honourable senators, I move:

That the Standing Senate Committee on National Finance, the Standing Senate Committee on Human Rights, and the Standing Senate Committee on Foreign Affairs and International Trade have permission to sit tomorrow evening after six o'clock, even though the Senate may then be sitting.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

[Translation]

## ORDERS OF THE DAY

### BILL TO AMEND CERTAIN ACTS IN RELATION TO DNA IDENTIFICATION

#### THIRD READING—DEBATE ADJOURNED

**Hon. Pierre Claude Nolin** moved that Bill C-18, to amend certain Acts in relation to DNA identification, be read the third time.

He said: Honourable senators, I am very pleased to participate, once again, in the debate on Bill C-18, to amend certain Acts in relation to DNA identification.

At second reading, I focused on the bill's unusual background and the fact that it is highly technical. I also discussed the main improvements that were introduced in Bill C-13, but that are not yet in force.

I emphasized the importance of bringing this bill into force soon. Bill C-18, which we are considering this evening, will improve Bill C-13 in many ways. It simplifies the wording, but does not change the offences in it.

Honourable senators may recall that former Bill C-72 was introduced in November 2005 to make changes officials had recommended. When Bill C-72 died on the Order Paper, the Department of Justice organized a two-day meeting in Toronto for police, prosecutors, judges and corrections staff. All of these stakeholders took a very close look at bills C-13 and C-72.

During the meeting, they found still more shortcomings in the legislation and recommended another round of changes. They pointed out that the definitions required clarification, that the forms did not reflect the latest changes, and that the procedure to ensure that an individual provided a sample for DNA analysis lacked bite. They also pointed out that there were no provisions

concerning the rules governing a person found guilty of an offence added to the list of designated offences under Bill C-13 if the offence was committed before the legislation came into force.

[English]

Therefore this bill is truly not a partisan measure. Indeed, its main effect is to make it possible for a bill that was presented by the former Liberal government to come into force. Why is it important for Bill C-13 to come into force? It is important because it will make Canada safer by multiplying the number of investigative leads provided to the police by the National DNA Data Bank. The effectiveness of the National DNA Data Bank depends on the number of profiles in the Convicted Offenders Index and the number of profiles from the crime scenes uploaded to the NDDB by the forensic laboratories of the RCMP, Ontario and Quebec.

It is not a straight line increase so that a 25-per-cent increase in profiles produces a 25-per-cent increase in matches. It will produce a greater increase because every week new convicted offender profiles match crime scene profiles that have been in the NDDB for years, and new crime scene profiles match the profiles of convicted offenders that have also been in the data bank for years.

[Translation]

I would remind honourable senators that Bill C-13, once proclaimed will: allow courts to order the taking of bodily substances for forensic DNA analysis from persons found "not criminally responsible on account of mental disorder"; add Internet luring of a child, uttering threats, criminal harassment, and "criminal organization" offences to the list of designated offences; move "robbery" and "break and enter into a dwelling house" and child pornography related offences from the list of secondary offences to the list of primary designated offences; create, within the list of primary designated offences, a new sub-category of 16 extremely violent offences for which the courts will have no discretion whatsoever; and must order the taking of a sample; broaden the definition of secondary designated offences to cover all offences that are punishable on indictment by five years or more.

Each of these changes will contribute to making more offenders subject to DNA analysis.

However, it would be impossible to predict exactly how many additional samples might be added to the data bank, to be analyzed and added to the convicted offenders index, because the results depend largely on how much the new provisions are applied by prosecutors and how judges exercise their discretionary powers, where applicable.

Nevertheless, I think it is safe to assume that the number of samples will double, and perhaps triple. Representatives from the RCMP assured the Standing Senate Committee on Legal and Constitutional Affairs that the bank can analyze 30,000 samples taken from offenders. Yet, it now receives only around 18,000. Those figures all apply annually, needless to say.

The bank's equipment can handle up to 60,000 samples, thus tripling the number of requests, but it would then have to hire and train additional staff.

[English]

The committee also heard from the RCMP about the impact of Bill C-13 on the regional forensic laboratories. Honourable senators are aware that the Auditor General recently criticized the time the RCMP labs take to complete crime scene analysis. Representatives of the RCMP presented their plan to meet the problems and to increase their capacity. Honourable senators will remember that question was raised in the debate in second reading and their committee addressed that question, interviewing representatives from the RCMP.

[Translation]

The amendments proposed in Bill C-13, specifically the addition of offences punishable by five or more years in prison — a total of 172 offences — have broadened the definition of a designated offence. Consequently, more samples taken at crime scenes can be uploaded than before.

• (1820)

The RCMP has estimated that this legislation will increase the genetic analysis workload of forensic laboratories by 42 per cent per year.

The RCMP estimates that it will need \$15 million in the first year, as well as a permanent budget of approximately \$7 million. The forensic laboratories currently have a budget of approximately \$10 million annually. Laboratories in Quebec and Ontario will likely also see an increase in demand.

However, we cannot predict exactly how many more samples to expect. This depends mainly on the police resources that are available to look for DNA evidence at a crime scene and on the laboratories' analytical capacity.

[English]

The RCMP also advised the committee that it will be presenting more detailed information to Parliament so that we can monitor the progress that it is making in improving service to the police. The committee also heard at length about the international exchange of DNA information. Although requests from other states to Canada and from Canada to other states to search DNA databases are handled through Interpol, so that DNA information may be shared with almost 200 countries, there have been only about 250 such requests in more than five years. The overwhelming majority of these have been with the United States, the United Kingdom and European states. However, more and more countries will develop DNA labs, so certainly, we will have to keep an eye on the development of international exchanges.

[Translation]

Honourable senators, even though Bill C-18 and the former Bill C-13 will have a major impact, there is still a great deal to be done. When the legislation that created the National DNA Data Bank was before Parliament in 1998, the Senate, this chamber, made two important recommendations.

First, we suggested that there was a need for a panel of experts to advise the Commissioner of the RCMP on matters related to the operation of the National DNA Data Bank. In May 2000, in

response to our concerns, the government set up the National DNA Data Bank Advisory Committee, which is responsible for advising the Commissioner on all matters related to the establishment and operation of the Data Bank. The Advisory Committee was created and is doing an excellent job. Its annual reports, which are available on its Web site, provide an overview of the issues the committee has addressed.

Second, given that this was new legislation, technology was changing rapidly and there were questions about the procedures that would be developed to protect people's privacy and safeguard the information in the data banks, we recommended that the legislation and the operation of the Data Bank be reviewed within five years of the coming into force of the act.

The government accepted this recommendation and article 13 of the DNA identification legislation provides:

Within five years after this Act comes into force, a review of the provisions and operation of this Act shall be undertaken by any committee of the Senate, of the House of Commons or of both Houses of Parliament that is designated or established for that purpose.

Honourable senators, when the Minister of Justice appeared as the first witness he acknowledged that Bill C-18 needed to come into force, but he wanted the department to take a few months to update all the various provisions under various legislation to ensure full compliance and to publish the reports in accordance with the law.

[English]

It is urgent that we, as parliamentarians, begin the review of the DNA legislation as soon as possible. It is up to us to decide that, and no one else. We need to consider jurisprudence over the last seven years regarding our present legislation. We are already two years behind schedule. We need to hear from Charter and privacy experts on the implications of adopting the system of the United States or of the United Kingdom.

[Translation]

To this side of the house, it is important that this review indeed be done this coming fall. We have to take the necessary time to ensure that Canada once again has the best possible system for monitoring DNA identification. I am sure my colleagues opposite share this concern and that together we could organize this legislative review that is already two years behind schedule.

In the meantime, honourable senators, I invite you and urge you to support Bill C-18.

[English]

**Hon. Serge Joyal:** Honourable senators, I rise to speak to the intervention by Senator Nolin. I had the benefit of sitting on the Legal and Constitutional Affairs Committee with Senator Nolin, Senator Andreychuk and Senator Milne, the then Chair of the committee, when the first bill establishing the National DNA Databank was introduced in 1988. Following a study, the Senate Legal Affairs Committee recommended two fundamental amendments, referred to by Senator Nolin in his speech today.



I insist on the importance of the Senate beginning its review of the bill, which is long over due. Why is that? Since the establishment of the databank, two major bills have broadened the scope of the National DNA Databank: Bill C-13, as Senator Nolin mentioned; and Bill C-18. The bills made the following changes: Originally the DNA Databank addressed violent crime and crimes related to sexual assault. Such crimes are directly associated with violence against the person. With these two bills, we have widened the scope of the act so much, particularly by Bill C-18, that the parameters to be protected by the Charter and interpreted by the court in the original bill, have been lost, and the Charter now affords protection to other crimes within the proposed framework of the DNA Databank. Among them, is the offence of helping someone to escape a crime, any crime. It is such a wide new horizon that we have to be sure that the parameters of the Charter are well understood within the function and operation of the databank. Concern on both sides of the committee was expressed when we studied this bill.

It is unfortunate that the committee in its observations and Senator Nolin in his speech referred to the importance of this chamber reviewing, after seven years of operation, the function and protection afforded to Canadians within the framework of the Charter. This concern is deeply shared on all sides of the chamber, without any special political allegiance.

This is so important that the last decision of the Supreme Court given in *R. v. Rodgers* in 2006 was split four to three. The dissenting justices confirmed that the DNA operation of the bank is "a substantive intrusion in the private life of citizens." The Supreme Court recognized the importance and the significance of compelling someone to provide, even under force, a DNA sample.

• (1830)

Honourable senators, it is most important that we associate ourselves with Senator Nolin. I hope this fall the Legal and Constitutional Affairs Committee will be in a position to start its review and recommend to the government and, of course, the other place the conclusions that stem from that examination. It is long overdue. This bill offers us an additional opportunity and urgency to move in that direction.

I am sure than many honourable senators who participated in the three bills to which Senator Nolin referred — this bill, Bill C-13 and the original bill establishing the data bank — are still members of the committee. Senator Milne, Senator Andreychuk, Senator Nolin, Senator Baker and I participated in the original establishment of the bank. With our memory of what we heard in those three studies, we are in a position, with the help of other senators who will join the effort, to bring forth a good report.

I join with Senator Nolin in requesting honourable senators to support this bill and to support the motion in this chamber next fall so that we can open the review of that functioning of the bank and the protection of citizens within the parameters of the Charter.

**Hon. George Baker:** Perhaps this comment could be a notation in the form of a question, but maybe an observation would be more appropriate at this point.

I congratulate the members of the Standing Senate Committee on Legal and Constitutional Affairs for an excellent job concerning this bill. I note for the record that observations were made concerning the bill. It was not amended, but observations were made. One observation is important. An amendment was not made concerning it, but it should be on the record.

As Senator Joyal and Senator Nolin pointed out, the Supreme Court of Canada decision declared that the *ex parte* order to have the blood sample referred to the data bank was constitutional. This present legislation allows for a procedure whereby, if the RCMP finds that the order that was executed to take the blood and put it in the bank is facially defective, they can follow a procedure in the bill to correct the error. This error would be one that the RCMP solicitor would see upon acceptance of the blood at the bank.

We did not amend the bill to force the RCMP to redo the entire process, but the observation the committee made was that the accused person in this particular instance, or the solicitor for the accused, should be notified. In other words, disclosure should be made that a correction was made to the order. Normally they would not be aware of a defect that was facially present in the order that was issued by the court and declared constitutional by the Supreme Court of Canada.

I wanted to put that on the record in saying that the committee did an excellent job. I notice that Senator Oliver, the chair, is here. The committee is to be congratulated for the work they completed. I hope the Minister of Justice will take note of the observation and follow through with some legislation. Perhaps the record of this proceeding will be read by certain defence lawyers who will do a second take and find out if a facially defective order was issued in the first place. Thank you.

On motion of Senator Tardif, debate adjourned.

[Translation]

## BUSINESS OF THE SENATE

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I would like us to move immediately to item No. 2 under Reports of Committees, consideration of the sixteenth report of the Standing Senate Committee on National Finance (*Main Estimates 2007-08*), presented in the Senate on June 6, 2007.

[English]

## THE ESTIMATES, 2007-08

### SECOND INTERIM REPORT OF NATIONAL FINANCE COMMITTEE—DEBATE SUSPENDED

The Senate proceeded to consideration of the sixteenth report (second interim) of the Standing Senate Committee on National Finance (*Main Estimates 2007-2008*), presented in the Senate on June 6, 2007.

**Hon. Joseph A. Day** moved the adoption of the report.

He said: Honourable senators, this report of the Standing Senate Committee on National Finance was presented by our Deputy Chair, Senator Nancy Ruth. I thank her for doing that. I want to refer to a few items with respect to this report as I thank the committee for the fine work they have done.

Honourable senators will know that, with respect to supply bills, we typically prepare a report prior to receipt of the supply bill. I anticipate the supply bill, Bill C-60, will be dealt with next. I therefore ask that this report be reviewed and considered prior to consideration of the supply bill.

The supply bill typically is not sent to the National Finance Committee, but the items we deal with in the report relate to supply since supply appears in the Main Estimates that we receive in March. In fact, the attachments to the supply bill appear in these Main Estimates. When we are given a mandate with respect to the Main Estimates, we have that mandate throughout the year, and we can explore various issues in relation to the estimates throughout the year.

The sixteenth report, which we have under consideration at this time, is the second interim report with respect to those Main Estimates. We dealt with, on an ongoing basis, a number of issues under that general mandate. One of those, honourable senators, is the issue with respect to financial statement reporting.

At this stage, I want to thank my honourable colleague, Senator Segal, for sponsoring Bill S-217, which gave us an opportunity to focus again on the issue of accrual accounting. Also provided for in that private member's bill of Senator Segal is quarterly reports.

We were able to bring in a number of witnesses to debate this ongoing issue of considerable importance to the Standing Senate Committee on National Finance.

Charles-Antoine St-Jean, the Comptroller General of Canada, appeared before us. He was helpful in giving us an outline of where the government is now with respect to accrual accounting. Some honourable senators may recall the debate we had with respect to that issue at the time of interim supply, and the difficulty we have with respect to various accounting methods used by the government.

Mr. St-Jean explains that, currently, appropriations, which are what the supply bill is all about, are not on the same basis as generally accepted accounting principles. At present, the Government of Canada has one basis for accounting for appropriations, which is near cash, and one for financial reporting, which is near accrual. Honourable senators will appreciate that that presents some difficulty in making comparisons and in reviewing these various financial statements.

• (1840)

At the back of our report, honourable senators will find our addendum explaining the various types of accounting methods. At one extreme is cash accounting, which essentially reports cash transactions when cash is received or paid out by any organization. That cash transaction basis is often used by departments in their budgeting process. Therefore, financial statement items such as accounts owed to or by the government or other non-cash items are not recorded.

At the other extreme, full accrual accounting recognizes transactions when they have been earned or incurred rather than when cash comes in or goes out. Between these two systems are two modified or hybrid systems, one near cash and the other near accrual. We find all of those systems being used in government.

I know that honourable senators will join with the National Finance Committee in urging the government to adopt one system throughout that will be helpful to us in our job of reviewing and overseeing the role of government and various government departments.

Mr. St-Jean indicated to us that it is government policy, as it was with the previous government, to move in that direction. He indicated that 22 of the largest departments will be required to prepare annual financial statements on an accrual basis ready for audit by March 31, 2009. He indicated that that will be a major undertaking, but it will comprise approximately 90 per cent of spending by government. We will be keeping an eye on that, honourable senators. Two years hence, we will hopefully be 90 per cent of the way there.

In the meantime, we hope to deal with Senator Segal's private bill soon. Our committee has not yet reported it back to the Senate because we were trying to adjust to realities in the government, and we did not want to report a bill that had no chance of being implemented at the present time. However, we very much appreciate having had the opportunity to focus on this issue again.

I want to bring the attention of honourable senators to the report of the Auditor General of Canada that was issued in February, as well as reports issued in May. We typically bring the Auditor General in to talk with us annually, and a few weeks ago she came to speak with us again. She indicated that her office received \$80.6 million in appropriations through Main Estimates and employs 625 full-time equivalent people. That is a huge organization, honourable senators. She is, of course, an officer of Parliament and provides us with a tremendous amount of information that helps us hold the government to account.

Honourable senators will recall that the Office of the Commissioner of the Environment and Sustainable Development resides within the Auditor General's department. We may want to take a look at whether it is appropriate, in this day and age when the environment and sustainable development has such an important and unique role, for that group to stay within the Office of the Auditor General or whether it should become a stand-alone organization. That is a debate for another time.

The Auditor General informed us that the report from her office in February 2008 will consist entirely of follow-up reports on audits completed by the Commissioner of the Environment and Sustainable Development. That gives honourable senators an indication of the intensity of the focus on the environment.

Honourable senators, we learned from the Auditor General that the Department of Indian Affairs Canada receives 60,000 reports per year as a result of requirements from various grant and contribution programs.



## BUSINESS OF THE SENATE

**The Hon. the Speaker:** Honourable senators, it being 6:45 p.m., pursuant to the order of the Senate adopted on June 14, and rule 66(3), I must interrupt the proceedings in order for the bells to call in the senators to be sounded until 7:00, at which time the Senate will proceed to the taking of the deferred vote on the subamendment to Bill C-288.

Call in the senators.

## KYOTO PROTOCOL IMPLEMENTATION BILL

### THIRD READING—MOTIONS IN AMENDMENT AND SUBAMENDMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Trenholme Counsell, for the third reading of Bill C-288, to ensure Canada meets its global climate change obligations under the Kyoto Protocol;

And on the motion in amendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Angus, that Bill C-288 be not now read a third time but that it be amended:

(a) in clause 3, on page 3, by replacing line 19 with the following:

“Canada makes all reasonable efforts to take effective and timely action to meet”;

(b) in clause 5,

(i) on page 4,

(A) by replacing line 2 with the following:

“to ensure that Canada makes all reasonable efforts to meet its obligations”,

(B) by replacing line 6 with the following:

“ance standards for vehicle emissions that meet or exceed international best practices for any prescribed class of motor vehicle for any year,” and

(C) by adding after line 13 the following:

“(iii.2) the recognition of early action to reduce greenhouse gas emissions, and”,

(ii) on page 5,

(A) by replacing line 9 with the following:

“(a) within 10 days after the expiry of each”,

(B) by replacing line 23 with the following:

“first 15 days on which that House is sitting”, and

(C) by replacing lines 26 and 27 with the following:

“each House of Parliament is deemed to be referred to the standing committee of the Senate and the House of Commons that”;

(c) in clause 6, on page 6, by adding after line 29 the following:

“(3) For the purposes of this Act, the Governor-in-Council may make regulations restricting emissions by “large industrial emitters”, persons that the Governor-in-Council considers are particularly responsible for a large portion of Canada’s greenhouse gas emissions, namely,

(a) persons that are part of the electricity generation sector, including persons that use fossil fuels to produce electricity;

(b) persons that are part of the upstream oil and gas sector, including persons that produce and transport fossil fuels but excluding petroleum refiners and distributors of natural gas to end users; and

(c) persons that are part of energy-intensive industries, including persons that use energy derived from fossil fuels, petroleum refiners and distributors of natural gas to end users.”;

(d) in clause 7,

(i) on page 6,

(A) by replacing line 32 with the following:

“that Canada makes all reasonable attempts to meet its obligations under”, and

(B) by replacing line 38 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 7, by replacing line 4 with the following:

“(3) In ensuring that Canada makes all reasonable attempts to meet its”;

(e) in clause 9,

(i) on page 7, by replacing line 33 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 8,

(A) by replacing line 3 with the following:

“Minister considers appropriate within 30 days”, and

(B) by replacing line 7 with the following:

“(1) or on any of the first fifteen days on which”;

(f) in clause 10,

(i) on page 8,

(A) by replacing line 9 with the following:

“10. (1) Within 180 days after the Minister”,

(B) by replacing line 11 with the following:

“tion 5(3), or within 90 days after the Minister”, and

(C) by replacing line 38 with the following:

“(a) within 15 days after receiving the”, and

(ii) on page 9,

(A) by replacing line 6 with the following:

“Houses on any of the first 15 days on”, and

(B) by replacing line 9 with the following

“(b) within 30 days after receiving the advice,”;

(g) in clause 10.1, on page 9,

(i) by replacing line 17 with the following:

“and Sustainable Development may prepare a”,

(ii) by replacing line 32 with the following:

“report to the Speakers of the Senate and the House of Commons”, and

(iii) by replacing lines 34 and 35 with the following:

“Speakers shall table the report in their respective Houses on any of the first 15 days on which that House”.

On the subamendment of the Honourable Senator Eyton, seconded by the Honourable Senator Tkachuk, that the motion in amendment be amended by deleting amendment (b)(i)(C).

Motion on subamendment negated on the following division:

• (1900)

#### YEAS THE HONOURABLE SENATORS

Andreychuk  
Cochrane  
Comeau  
Di Nino  
Gustafson  
Johnson  
Keon  
LeBreton

Nancy Ruth  
Nolin  
Oliver  
Segal  
St. Germain  
Stratton  
Tkachuk—15

#### NAYS THE HONOURABLE SENATORS

Baker  
Banks  
Biron  
Callbeck  
Campbell  
Carstairs  
Chaput  
Cools  
Corbin  
Cordy  
Cowan  
Dallaire  
Dawson  
Day  
De Bané  
Dyck  
Eggleton  
Fairbairn  
Goldstein  
Grafstein  
Harb  
Hervieux-Payette

Hubley  
Jaffer  
Joyal  
Lapointe  
Lavigne  
Losier-Cool  
Lovelace Nicholas  
Milne  
Mitchell  
Moore  
Munson  
Pépin  
Phalen  
Poulin  
Ringuette  
Robichaud  
Rompkey  
Spivak  
Tardif  
Watt  
Zimmer—43

#### ABSTENTIONS THE HONOURABLE SENATORS

Nil

#### THE ESTIMATES, 2007-08

##### SECOND INTERIM REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

On the Order:

Resuming debate on the consideration of the sixteenth report (second interim) of the Standing Senate Committee on National Finance (Main Estimates 2007-08), presented in the Senate on June 6, 2007.

**Hon. Joseph A. Day:** Honourable senators, I was talking about how the Auditor General brought to our attention that Indian and Northern Affairs requires 60,000 reports per year to be sent to them. Honourable senators, that is an area we may want to take a look at in the future, as I suspect very much that various First Nations groups and others dealing with Indian and Northern Affairs wonder whether their reports are even being looked at, given the number of reports being sent daily to Indian and Northern Affairs.

The Auditor General brought to our attention a matter of concern throughout government, and that is the aging population of the employees in human resources. She pointed out in particular that the Department of Foreign Affairs and International Trade does not have a plan to deal with the situation. Most departments do, but DFAIT is lacking in that regard. That is another item that is worthy of further investigation. We have that on our list.



Finally, honourable senators, the Canada Coast Guard got a very poor report from the Auditor General. She had done two reports over the past five years and a follow-up report — much the same as we do. Our committees follow up to see how the recommendations in our reports have been implemented. She did the same and found that very little of the previous two reports had been implemented. That is all outlined in the February 2007 follow-up report by the Auditor General on the Coast Guard. There is a very serious problem with respect to underfunding, equipment malfunctioning and management not having the ability to handle the situation and the responsibilities the Coast Guard is growing into. The Coast Guard is not properly equipped or staffed to handle its important security role and function.

Honourable senators, we asked the Auditor General about the budget for her department. We felt that in the past there has been a concern about not only the salaries of the main people working within the Auditor General's department, but generally the budget. When Treasury Board was determining the budget, there was a conflict of interest. The Auditor General, in fact, is an officer of Parliament, and government should not be controlling the resources of an officer of Parliament.

We had been concerned about that. There has been some action taken by the government in that regard. A special advisory panel was established that includes the House of Commons Speaker and several members of different departments within the House of Commons. Honourable senators will be sad to hear that, even though we raised this issue some time ago, the Senate has not been invited to participate in that advisory panel.

• (1910)

Honourable senators, those are the issues that come from this particular sixteenth report. I respectfully request the adoption of this report.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and report adopted.

## APPROPRIATION BILL NO. 2, 2007-08

### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Nancy Ruth, seconded by the Honourable Senator Johnson, for the second reading of Bill C-60, for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2008.

**Hon. Joseph A. Day:** Honourable senators, this matter has already been moved by the sponsor of this bill, and I have had the opportunity to read the Honourable Senator Nancy Ruth's comments with respect to Bill C-60.

Honourable senators, I have spoken mainly about the issue during the report with which we just dealt. There are two or three other matters with respect to Bill C-60. Basically, I adopted the points outlined by the honourable deputy chairman of the National Finance Committee in her presentation to the Senate last Thursday.

Honourable senators, during the report that we just adopted, I spoke about the importance of being able to compare one year to the next and, if we cannot do that, how we are not really able to do the job we are charged to do in holding the government accountable.

I have the report and the expenditure plan, the Main Estimates for 2006-07. The total budgetary expenses for 2006-07 were \$205 billion. The total Main Estimates budgetary expenses for 2007-08 are shown as \$210 billion. However, honourable senators, there had to be an adjustment because the accounting process was different in those two years. The adjustment is almost \$15 billion. If we want to compare apples to apples, we have to take what we have seen from the past year and get someone who is knowledgeable to make the adjustment. The adjustment here says, "net adjustments from net to gross basis of budget presentations."

Comparing Main Estimates, year over year, 2006-07 to 2007-08, the Main Estimates go up from \$205 billion to \$230.7 billion, an increase of 12.5 per cent. Honourable senators will want to take a close look at that significant increase in budgetary expenditures year over year.

Honourable senators, when we look at the bill that before us, which is Bill C-60, there are two schedules. The first schedule is for \$30 billion, and that is the balance that was not given in interim supply at the end of March. I have checked through the schedule, and it is the same schedule that appears in the Main Estimates.

The point I want to raise is that it is important to watch for the fine print on these matters. The second schedule it says \$3 billion less \$1 billion, which had previously been voted during interim supply. Sums granted to Her Majesty by this act for the financial year ending March 31, 2008, that may be charged to that fiscal year and the following fiscal year ending March 31, and the purposes for which they are granted.

There is a tendency to start asking for approvals not on an annual basis, but small amounts, \$2 billion on this one, for more than one year — for two years. We will forget about this next year, honourable senators. It is important for us not to be forgetting about the fact that we are approving two years hence. The period referenced is not just for one year with respect to \$2 billion in Bill C-60.

Honourable senators, this is government supply. I have pointed out some of the points that I think are important. We will continue to keep an eye on the Main Estimates throughout the year. I would respectfully request that we should support this bill.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

**The Hon. the Speaker:** When shall this bill be read a third time?

On motion of Senator Nancy Ruth, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

## BUDGET IMPLEMENTATION BILL, 2007

### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Angus, seconded by the Honourable Senator Stratton, for the second reading of Bill C-52, to implement certain provisions of the budget tabled in Parliament on March 19, 2007.

**Hon. Bill Rompkey:** Honourable senators, presenting this budget on March 19, 2007, the Minister of Finance stood in the other place and proclaimed:

The long, tiring, unproductive era of bickering between the provincial and federal governments is over.

Honourable senators, I did not make that up. That was in the budget speech. That is what the man said. That was the government's attempt to spin a terribly divisive budget for Canadians, but the truth will out. Since then, we have had the spectacle of the Prime Minister taunting several provinces to sue him over the budget. One premier has announced that his government intends to do just that, and there are several more who may well join him.

I will speak about the government's treatment of the Atlantic accords and the equalization program later. While this issue is receiving a great deal of attention, it is not the only aspect of this budget that seems calculated to sow discord and divisiveness among regions and individual Canadians.

This is a budget replete with broken promises and bad public policy. In what we are coming to recognize as the hallmark of this government, they are using all means at their disposal to pressure parliamentarians into quickly passing the budget implementation bill, preferably with as little scrutiny as possible. They say it is urgent. When Bill C-52 was in the other place, the government took it off the legislative agenda for three weeks in April and May with no explanation and then had the audacity to invoke closure to bring the bill to a final vote. If this bill is urgent, why would the government take the unprecedented step of taking it off the agenda for three weeks? The same government has now turned its heavy hand on us.

We have heard cries from the government that, as the unelected Senate, we have no right to take the time necessary to study this controversial bill and certainly we have no right to consider amending it. Honourable senators, we not only have the right, but we also have the constitutional duty.

• (1920)

There is one aspect of the budget that I note with pride, and that is the new Canadian Mental Health Commission. Honourable senators will know that this commission is based on the recommendations of our own Standing Senate Committee on Social Affairs, Science and Technology in a report released one year ago. Indeed, our former colleague, the Honourable Senator Kirby, has agreed to serve as chair of this commission. I point that out because we can take some credit for that. Senator Eggleton, who is now the chair, and Senator Keon can take some credit for that. It is in the budget and we did it.

Honourable senators, I focus in this speech on what is in the budget implemented by Bill C-52. However, perhaps the most distressing aspects of this bill are the items that are ignored by the government. First, the serious pressing needs of Aboriginal Canadians are essentially ignored by this government. *The Globe and Mail* reported the other day, after the budget was announced, "The Conservative government has rejected calls for a new social spending to address the devastating poverty on many native reserves, tabling a budget that left Canada's top Aboriginal leader fighting back tears."

I turn now to literacy programs. Here, I look at Senator Fairbairn, and at other senators who led the fight to restore literacy funding. Literacy funding was cut by this government and not restored in this budget. The Court Challenges Program was not restored in this budget.

Honourable senators, a long list of mistakes has been made by the government that will not be fixed by the budget or by the bill. With this budget, Finance Minister Flaherty, as one editorial has said, "is now the biggest spending finance minister in Canadian history." I regret that bigger is not always better.

Honourable senators, the government has said its budget supports hard-working families. In support of this claim, they are creating a working-families tax plan, but many Canadian working families are left out of the plan. The centre piece of this plan is a \$2,000 Child Tax Credit. That sounds good, but when we look at the fine print, first, it is not actually worth \$2,000. It is a non-refundable tax credit, which means that its maximum real value in federal income tax savings will be \$310. However, because it is not refundable, it is helpful only for those who have enough taxable income to make use of it. All well-to-do families, including the rich, will receive the \$310. Poor families, however, will receive much less. Furthermore, a single parent making \$20,000 a year or less will not receive any money at all from this measure.

The Caledon Institute of Social Policy, in its report, called this tax credit a policy zombie. They said the measure will make income inequality among families worse and not better. The authors of the report, the Caledon Institute of Social Policy, asked: How can a government decide to spend billions of dollars to resurrect obsolete programs that do not gear their payments according to need? Honourable senators, this is not intelligent social policy. The plan would also provide a \$209 tax reduction if a taxpayer has a dependent spouse or child. This reduction is also a non-refundable tax credit, which means that lower income families will not benefit at all. Meanwhile, the government is standing by its decision last year to raise personal income tax for



the lowest income bracket. That decision affected all Canadians but especially hurt lower income Canadians. With the 2007 budget, we see once again that these families are being pushed aside.

In the fall economic update, the government promised to devote all interest payment savings from reducing the debt to personal income tax reductions. At the current level of planned debt repayment, Canadians will not see a reversal of the 2006 tax increase until 2010. Worse still, we see in the 2007 budget that the government has not used the interest savings for tax relief that will help all Canadians. Instead, the government used it for targeted tax credits that will do nothing to help millions of left-out Canadians.

There is one area of the 2007 budget where this government tries to do something for the working poor, namely by introducing the Working Income Tax Benefit. However, honourable senators, this government copied that plan from the 2005 fiscal update of the Liberal government. In this initiative, it showed admirable judgment. Unfortunately, the present Government of Canada chose to put in only half the money originally planned by the Liberal government.

Regarding income trusts, Bill C-52 would also implement this government's decision to break its promise to Canadians and tax income trusts. Honourable senators, that broken promise cost over two million Canadian investors \$25 billion of their hard-earned savings. Many of us have met or heard from Canadians who lost all their retirement savings or their savings for their children's university education because they believed Prime Minister Harper when he promised he would preserve income trusts by not imposing any taxes on them.

To try to placate the many senior citizens devastated by this broken promise, the government announced it would allow splitting of pension income and increase the non-refundable age credit for persons 65 years of age and over. According to Department of Finance estimates, these two measures will cost the government more than \$6 billion in foregone tax revenues over six years. Honourable senators, \$6 billion is a lot of money. It will go far to help the senior citizens in our country who have barely enough to live by. However, that is not what will not happen. Only well-to-do senior couples will see substantial tax savings from income splitting.

According to the Caledon Institute report, a senior couple with \$100,000 in pension income will see a tax reduction of \$7,280. That is nine times the \$802 tax savings for a couple with \$30,000 of private pension income, and more than 23 times the \$310 savings of a couple with \$20,000 in private pension incomes. In other words, these senior couples who lost the most because of the government's broken promise will benefit the least from these measures. Only those wealthy couples who either knew not to trust the Prime Minister's word in the first place or had enough money to have a lot remaining after the income trust fiasco will truly benefit.

With respect to child care, many of us have been particularly dismayed to see this government cavalierly toss out all the agreements carefully negotiated between the previous Liberal government and the provinces and territories for early learning and child care programs across the country.

Dr. Fraser Mustard, an internationally recognized expert in the field of early childhood development and a companion of the Order of Canada, recently published a report showing that Canada ranks last among countries in the Organization for Economic Co-operation and Development in its spending on early childhood education. That is last among the United States, New Zealand, Australia, Japan, most of Europe, and Mexico. Canada expenses 0.25 per cent of GDP on early childhood programs, in contrast to other developed nations that spend up to 2 per cent. It is clear from this budget that this government believes the rest of the developed world is wrong and it alone knows the true path, for this budget continues to shortchange our children.

Instead of \$1.2 billion in funding next year to the provinces and territories for child care, as the previous federal government and all provincial governments had agreed, this budget commits to transferring only \$250 million to the provinces and territories — a net loss of \$950 million for the children of Canada and for child care in Canada.

According to the Child Care Advocacy Association of Canada, words and funding cuts will not sustain child care spaces. A credible approach to expanding child care services in communities across the country requires adequate resources, public standards and provincial and territorial planning. So far, the current government spaces initiative lacks all of these things. The words and the numbers simply do not match. Indeed, Monica Lysack, executive director of the association, describes this government's approach as a cut-and-run approach: Cut the cheques and run from responsibility. However, our children's welfare and development and the future of our country is at stake.

• (1930)

Honourable senators, there is another aspect of this government's proposed change to child care funding and funding for social and health programs generally that should cause us great concern. With this budget, the government is changing the basis on which the Canada Social Transfer and the Canada Health Transfer are allocated to provinces and territories.

The CST is the main federal transfer program that provides financial support for post-secondary education, social assistance and social services involving early childhood development and early learning and child care. With Budget 2007, the CST will be allocated on an equal per capita basis, legislated to take effect in 2014-15 when the current legislation expires. This will have a far-reaching and negative consequence for my province, and for all Atlantic provinces — and I suspect that we will not be alone.

The budget announces increased funding for post-secondary education — a goal we all support. However, the move to equal per capita allocation means that most provinces will see very little of this. According to the Canadian Association of University Teachers, because of the new allocation, "this money will flow almost entirely to Ontario and Alberta."

Senator Murray spoke to this in this chamber on May 8 — I think it was Senator Moore who introduced the issue and spoke eloquently to it. Senator Murray quoted a statement by the Honourable Michael Baker, Minister of Finance of Nova Scotia, in his budget address. He said — and I quote:

Measures in the federal budget will widen — not close — the gap that exists between the richer and poorer provinces in this country.

And new methods of allocating other federal transfers, based on a cash amount per capita, actually favours the more populous provinces like Alberta and Ontario — the ones that already have a far greater fiscal capacity relative to Nova Scotia.

The best example of this is the Canada Social Transfer, which is used to cover the cost of higher education and social services. The federal government will increase national CST funding for post-secondary education by \$800 million in 2008-2009.

But Nova Scotia will see only \$6 million more.

This is a measure, honourable senators, putting it on a per capita basis where the less populated provinces are worse off than they were before. Nova Scotia has five or six universities. Education is an industry in Nova Scotia; they are educating the world. I was at a convocation ceremony recently, in Newfoundland and Labrador, where only one person from the MBA program was not from China. These universities are not only educating people in the region, they are educating people from all over the world — and they need to keep doing that. They are strong and they need to keep being strong. However, if they are refused the funds, if the funds go elsewhere based on a per capita basis, how will they survive? This is an extremely important issue for us.

As Senator Murray pointed out, Nova Scotia has more universities and more university students per capita than most provinces in Canada; yet, this fact will not be reflected in the funding. It will significantly hurt post-secondary education in our smaller provinces, the very key to providing a strong economic future. In the knowledge economy, education is essential. Education is the key tool in turning economies around. That is what is being cut and diverted, and that is what is wrong.

What is the answer? Is the government saying that each province should only look to service its own people? Will the result be that provinces begin to close their doors on students from outside their provincial borders, or charge exorbitant tuition rates to compensate for the shortfall?

Remember that old hymn *Jesus Bids Us Shine* and the line, “You in your small corner, and I in mine”? The government is turning that on its head. You stay in your corner; we are only giving you enough to service your corner and very little else.

In this country, we pride ourselves on the mobility of citizens. Surely, it is a good thing when students from British Columbia or Ontario come to Memorial or Dalhousie to study and to learn about other parts of this great country. What values are reflected in a policy that would discourage this kind of national interchange, this movement across Canada, this getting together of students? What are the values of a government that brings in a policy such as that? What kind of a nation will we become if our national government makes policies that discourage young people from broadening their minds and their understanding?

In 2004, the Caledon Institute of Social Policy published a study on the impact that per capita cash payments would have on provinces with an aging population relative to other provinces. This is with regard to the Canada Health Transfer, and the results are very worrying.

Health care costs increase with age, and the increase accelerates after age 75. Provinces with a faster aging population will therefore experience a higher rate in health care spending as their share of the senior population rises over time. Guess what provinces they are? Who exports people in this country? What provinces will be affected? Who is left to pay the debts of that export?

As the study notes, under these conditions, per capita cash entitlements will be unfair to those provinces where the share of the senior population increases at a faster rate than the national average due to low fertility rates and the out-migration of young people. I know Senator Moore has raised this issue before, and I suspect he will bring it up again; I want to give him the credit for raising this issue previously, because it is very serious.

Honourable senators, moving to an equal per capita allocation will be to the advantage of a province like the Prime Minister's, while it is a significant disadvantage to provinces like those of Atlantic Canada.

The study then looked specifically at the province of New Brunswick as a case study. The institute's results show that the equal per capita payment would lead to a “substantial underpayment” to New Brunswick.

The proposal in the budget is presented by the government as one that will ensure equal treatment of all provinces and territories, but the result is the exact opposite.

My province already has difficulty meeting the costs of social services, health care and education. We have an aging population, and, as I said before, we are exporting to provinces, notably Alberta. Therefore, a province like Alberta would benefit doubly, first benefiting from Newfoundland and Labrador having borne the cost of education and health care for those workers and then benefiting again when these people are working in Alberta, contributing to the provincial economic boom but not drawing on Alberta's social services to the same extent. Meanwhile, Newfoundland and Labrador suffers twice, first carrying the costs of education, health care and other social services for people who move to places like Alberta, and then carrying the heightened health care and social service needs of the remaining older population.

Honourable senators, I shall now turn to this so-called strengthened equalization plan. In fact, it is now clear that this new equalization plan will significantly harm my province and all of the Atlantic provinces. In other words, we are being hit several times, and with cumulative effect. The Government of Canada has the audacity to tell Canadians that this is equal treatment and a strengthened equalization program.

Let us look at the facts. I shall begin with Minister Flaherty's budget speech. He says there has been a lot of talk about fiscal balance. What is it really about, he says? It is about better roads, renewed public transit, better health care, better equipped



universities and training to help Canadians get the skills they need. It is about building a better future for our country. He says, "We get that. The provinces get that. Canadians get that." That is what he said.

That is the real issue, making sure that Canadians, wherever they are in this country, have the same opportunities to lead productive, satisfying and healthy lives. However, this new plan, in fact, appears to make it more difficult for those of us in the Atlantic provinces to reach those common goals. They said they get it, but they do not get it.

Throughout the budget document, there are references to long-term, equitable and predictable funding; however, honourable senators, these are empty words if promises can later be nullified or ignored. We have seen almost a dozen instances of where promises were made and then ignored either in this budget or elsewhere.

• (1940)

Let me talk about some of those instances. The Prime Minister made a solemn promise to the government and people of my province, not once but several times. In March 2004, Mr. Harper, who was then a candidate for the leadership of the Conservative Party, wrote to the premier of Newfoundland and Labrador. The letter was in the form of questions and answers so I want to quote from a question and answer.

Will you support Newfoundland and Labrador's claim to 100 per cent of our offshore oil and gas provincial revenues making the province the true "principal beneficiary" as intended under the Atlantic Accord?

That was the question. Mr. Harper's answer was:

Yes. I would support the exclusion of non-renewable resource revenues from the Equalization formula.

By November, Mr. Harper was then the Leader of the Official Opposition. On November 4, 2004, he stood in the other place and reiterated "a long-standing Conservative commitment to ensure that the Atlantic Provinces would enjoy 100 per cent of their non-renewable resource royalties. He said:

This is a commitment that was made by me in my capacity as leader of the Canadian Alliance when I first arrived here and has its origins in the intentions of the Atlantic Accord signed by former Prime Minister Mulroney in the mid-1980s. These are long-standing commitments, our commitment to 100 per cent of non-renewable resource royalties. It was our commitment during the election, before the election, and it remains our commitment today.

Mr. Harper then went on in that speech to detail the discussion on that issue between the government of then Prime Minister Martin and Premier Williams. Let me read from Mr. Harper's speech:

Finally, on October 24 —

He is talking about the Liberal government now:

... the Minister of Finance finally replied offering: additional annual payments that will ensure the province effectively retains 100 per cent of its offshore revenues.

Then, Mr. Harper says, quoting from the Liberal Minister of Finance:

... for an eight-year period covering 2004-05 through 2011-2012, subject to the provision that no such additional payments result in the fiscal capacity of the province exceeding that of the province of Ontario in any given year.

This is Mr. Harper. The eight-year time limit and the Ontario clause effectively gutted the commitment made to the people of Newfoundland and Labrador during the election campaign. Stephen Harper went on to say:

Why should Newfoundland's possibility of achieving levels of prosperity comparable to the rest of Canada be limited to an artificial eight-year period? Remember in particular that these are ... non-renewable resources that will run out. Why is the government so eager to ensure that Newfoundland and Labrador always remain below the economic level of Ontario?

Mr. Harper goes on to say that:

The Ontario clause is unfair and insulting to the people of Newfoundland and Labrador, and its message to that province, to Nova Scotia and to all of Atlantic Canada is absolutely clear. They can only get what they were promised if they agree to remain have-not provinces forever. That is absolutely unacceptable.

Yes, it is totally unacceptable, Mr. Harper, when you said it and it is totally unacceptable now.

In February 2005, the Conservative Party sent a mailing to households all across Newfoundland and Labrador. Emblazoned on the front is the Gaelic proverb, "There is no greater fraud than a promise not kept." Inside, that circular says:

The Conservative Party of Canada believes that offshore oil and gas revenues are the key to real economic growth in Atlantic Canada.

That's why we would leave you with 100 per cent of your oil and gas revenues.

No small print.  
No excuses.  
No caps.

On January 4, 2006, in the middle of the election campaign, Mr. Harper again wrote to Premier Williams:

We will remove non-renewable natural resource revenue from the equalization formula to encourage the development of economic growth in the non-renewable resource sectors across Canada.

We now have Budget 2007. I am saddened to say, honourable senators, that these promises that I referred to and I quoted have been broken. The equalization formula contains a cap. You will remember that in their brochure; no conditions, no caps. The budget contains a cap, drafted to do exactly the same thing as the infamous Ontario clause. In 2004, Mr. Harper said that clause

had “effectively gutted” the Liberal election commitment that Newfoundland and Labrador ought to be the primary beneficiary of the offshore results. Now, in 2007, Prime Minister Harper sees fit to include this in his budget and to enshrine it in legislation.

Honourable senators, if it effectively gutted the commitment in 2004, it effectively guts the commitment in 2007. If it was “unfair and insulting to the people” then and absolutely unacceptable, it is unacceptable now and it is insulting.

It never made it into the 2005 Atlantic Accords. It was considered and rejected. Honourable senators, it should not be in this budget and it should not be in this bill.

The voters of my province of Nova Scotia and Saskatchewan were betrayed by the Prime Minister. This formula does not exclude 100 per cent of non-renewable resource revenues. The formula includes a cap and the infamous Ontario clause. Promises were made and promises were broken.

The 2005 Atlantic Accord was signed by Prime Minister Martin and built upon the 1985 Accord signed by the Progressive Conservative government of Prime Minister Mulroney.

Honourable senators, as Senator Murray, who is familiar with the accords and the equalization formula, reminded us in this chamber earlier:

I would say that those provinces

He was referring to Newfoundland and Labrador and Nova Scotia,

and the federal government have always considered those offshore accords not a part of equalization, not part of section 36(2) of the Constitution Act, 1982, but, rather, of section 36(1) of the Constitution Act, 1982, which imposes upon all of us federal and provincial obligations for regional economic development.

That is the key. The accords were regional economic development instruments. They were not about equalization. They were regional economic development instruments and that is the thing to be clear about; the same as an aerospace agreement with Quebec and with provinces across this country. agreements have been made for decades with provinces to enhance their economies. It is important to keep that in mind because this issue is being characterized as purely an equalization issue.

The Atlantic accords were never about equalization, but about a province keeping its resources, about economic development, about becoming a contributor to Canada, not just for a moment in time, but for always. They begin:

The Government of Canada recognizes the unique economic and fiscal challenges faced by Newfoundland and Labrador and the strong commitment of the province to improve its fiscal situation.

By the way, the same agreement was made with Alberta. When Alberta discovered oil, it was receiving equalization, and for seven years after that it continued to receive equalization even though it was obtaining resource royalties.

This is not a new situation we have faced. The same language is found in the opening paragraph of the Nova Scotia accord as well, and this is reinforced in the Background to the Accords, prepared by the Department of Finance:

Offset payments under both the 1985 Accord and the 2005 Arrangement are separate from the Equalization program.

That is what the accord says. That is important. The principles underlying the accord, negotiated agreements, solemnly concluded between two levels of government are separate and distinct from those of the Equalization Program. The mechanism of the accord relates to the Equalization Program. We cannot escape the Equalization Program. It is there. We have to deal with it, but the accords are separate from it. The offsets to the accords, to equalization loss, came from the Department of Natural Resources and not from the Department of Finance.

• (1950)

This was an offset that compensated the clawback of equalization dollars. In other words, if you made a dollar from oil and you lost a dollar from equalization, you are no further ahead. The principle behind the offset was to give people the real return from their resources. It is important to remember that the offsets came from the Department of Natural Resources and not from the Department of Finance.

The accords stand on their own merit and their terms are clear. Both Nova Scotia and Newfoundland and Labrador already receive, and will continue to receive, 100 per cent of these offshore revenues as if these resources were on land, the same as Alberta. The accords say that the Government of Canada intends to provide additional offset payments from the Department of Natural Resources to the province in respect of offshore-related equalization reductions, effectively allowing the province to retain the benefit of 100 per cent of its offshore revenues. The accords go on to say that from 2006-07 continuing through to 2012, the annual offset payment shall be equal to 100 per cent of any reduction in equalization payments resulting from offshore resource revenues.

The amount of additional offset payment for a year shall be calculated as the difference between the equalization payment that would be received by the province under the equalization formula as it exists at the time, if the province received no offshore petroleum resources in that year, and the equalization payment for the province in that year under the equalization formula as it exists at that time.

Honourable senators, note that the accords do not say “so long as the government of the day accepts this equalization formula.” They say “under the equalization formula as it exists at the time.” This is carefully drafted and in the language of an agreement that was written to last and to apply for a number of years. To me, that language shows that the negotiators recognized the possibility that the equalization might be changed and they were specifically stipulating that the terms of the accord would hold and be applied. There would be no cap under the accord. The calculations are clear. It is wrong for this government to unilaterally change the terms of those agreements.



**Some Hon. Senators:** Hear, hear!

**Senator Rompkey:** Honourable senators, those accords were negotiated and concluded to meet the particular needs of our provinces. The premise of the equalization program is to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services. Equalization is based on a province's revenue-raising capacity. It does not speak about needs. It does not speak about debts. It does not speak about economic development. It does not speak about education. It does not speak about infrastructure. Equalization speaks about none of these things.

The Atlantic accords were concluded to assist in economic development for the particular needs of the provinces. The negotiators of the 2005 accord recognized, for example, that Newfoundland and Labrador has the highest debt and debt-servicing burden in the country, more than double the provincial average. For the government to have the fiscal resources to be able to deliver comparable public services, impose reasonable taxes and transition its economy, it must address the debt challenge. That was the primary objective of both Newfoundland and Nova Scotia.

When the first cheques went to Nova Scotia, they went to pay down the debt. If they could not pay down the debt, they could not do anything else. It is like a home mortgage. Any investment banker will suggest paying down a mortgage in order to have disposable income to improve lifestyle. That is exactly what my province wants to do: We have to pay down our mortgage if we want to improve our lifestyle and if we want to grow, develop and be contributors in the Canadian economy. That is where this money was going. It is important to remember that it was going to provinces with a debt so they could pay the debt down and become producing provinces, contributors to the Canadian economy.

Budget 2007 and Bill C-52 will change the equalization program and the negotiated terms of the Atlantic accords. The Ontario clause which Prime Minister Harper denounced in 2004 will now be part of the equalization program, imposing a cap on equalization payments; so much for "no small print, no excuses and no caps."

Professors Hobson and Locke, of the Atlantic Provinces Economic Council, say that Bill C-52 imposes a new qualifying trigger. They say this qualifying trigger effectively precludes Newfoundland and Labrador from receiving the protection of the Atlantic accord. They later elaborate:

Moreover, the definition of fiscal capacity for purposes of the trigger that would invoke the restriction on additional offset payments mentioned under the budget implementation bill violates the accord since it can deny a province its additional offset payment precisely because it has offshore oil and gas revenue. While this may not be a matter of immediate concern to Nova Scotia, it most certainly is to Newfoundland and Labrador.

We are in the peculiar position where we can be denied additional offset payments because we have offshore oil revenues, the ultimate clawback and precisely that which the accords were intended to ensure against.

I referred earlier to the provision in the Atlantic accords that entitles the provinces to receive offset payments to compensate for any reduction in equalization payments. Under Budget 2007, the inclusion of 100 per cent of offshore oil and gas revenues in the calculation of total fiscal capacity for purposes of the cap can result in a province which, before the cap, would receive equalization, receiving either a reduced equalization payment or none at all. Yet, there is no provision in Bill C-52 that I can find for the payment of offsets in this situation, as would be required by the accords.

The Honourable John Crosbie, finance minister in the Progressive Conservative government of Brian Mulroney, which signed the original Atlantic accord — God bless them — which concluded in 1985, agrees that this budget changes the Atlantic accords. The new equalization formula and the manner in which the federal Department of Finance will be calculating the payments to Nova Scotia and Newfoundland and Labrador, Mr. Crosbie says, "will result in significant differences from those that would have occurred under the 2005 arrangement."

The Leader of the Government in the Senate has repeatedly told this chamber that our concerns are misplaced, as these provinces have an option: to stay with the 2005 accord or move on to the new formula. However, according to John Crosbie, the changes to the 2005 arrangement and legislation by the federal government:

... are compounded by the "one-way option" that has been presented to the provinces. That option states, "you can elect to stay with the 2005 arrangement as we interpret it and calculate it, or you can elect to go with the new 2007 equalization formula with a 'cap'; but once you choose, you must stay with that option."

You are doomed for all time.

The Honourable John Crosbie concluded:

The Federal Government has chosen unilaterally to change the 2005 Arrangement with Nova Scotia, and Newfoundland and Labrador, with significant financial consequences.

Professors Hobson and Locke reached the same conclusion. Interestingly, their analysis concludes that it Nova Scotia and Newfoundland will not be the only province to suffer financially under the new equalization program. New Brunswick and Prince Edward Island will also receive many millions of dollars less under the new program than the existing one.

While each of Nova Scotia, New Brunswick and Prince Edward Island would receive increased revenues under the new program for the first two years, thereafter they would lose, and indeed lose much more than was gained in those first two years. In the aggregate, for the period 2007-08 to 2019-20 — the remaining life of the Atlantic accords — Nova Scotia would receive \$1.4 billion less under the new program; New Brunswick would receive \$1.1 billion less; Prince Edward Island would receive \$196 million less; and my province would lose money right away and, in aggregate, Newfoundland and Labrador would receive \$1.4 billion less under the new program.

• (2000)

Honourable senators, in the budget speech, the Minister of Finance said: "As we promised, every province will be better off under the new plan." This is the new government's Newspeak.

I want to address one other matter that has been raised about the new equalization plan. Some have argued that the proposed changes are necessary to address concerns by the Province of Ontario that the program is unfair.

Professor Hobson commented on this to the press. He said that the changes will actually do nothing to address Ontario's concerns. He pointed out that the equalization program is paid for out of the federal government's general revenues. We all pay into equalization, from coast to coast to coast. We all pay into the government coffers from which equalization is distributed. There will not be anything more to Ontario; there will not be anything less to Ontario. Unless, as Professor Hobson says, the Government of Canada makes tax reductions, there will be no benefit to Ontario. I do not understand those who argue that this will be an extra burden for Ontario, because there will be no extra payments from Ontario into the equalization program.

Honourable senators, let us be clear. This is not a cash grab by Newfoundland and Labrador and/or by Nova Scotia. It is not a partisan issue. It is well known that members of the federal Conservative Party and the Progressive Conservative Party have come out strongly opposing these proposals. Premier Williams and Premier MacDonald are both leaders of Conservative governments. Saskatchewan has an NDP government under Premier Calvert, who has strongly advocated his province's right to keep revenues from its non-renewable resources —

**The Hon. the Speaker *pro tempore*:** Honourable senators, I am sorry to inform the senator that his time has expired.

Senator Rompkey, are you asking for more time?

**Senator Rompkey:** Five minutes.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Five minutes.

**Hon. Senators:** Agreed.

**Senator Rompkey:** I want to close with a quotation from John Crosbie:

This debate is not about "having one's cake and eating it too," as some are portraying it. For example, Newfoundland and Labrador's annual equalization has already declined significantly from a peak of \$1.2 billion in 1999-2000 to a projected \$477 million in 2007-08, partly because of the increase in its non-renewable petroleum revenues, but also because its population has significantly declined. Meanwhile, its per capita debt remains the highest in Canada. . . . There is no cake, only a long struggle for economic and social survival.

Honourable senators, let me close with that, except to remind you of what happened in Ireland. The example we often look to, because we are so close to Ireland, is what happened to that

country. Like Newfoundland and Labrador, Ireland had to systematically and stubbornly transform its economy, but the EU did not withdraw its support as Ireland began to do better. To the contrary, it continued to help Ireland with critical investments in education and infrastructure and bringing down its debt. Ireland is now an economic miracle, the Celtic tiger. We can and must do the same in the Atlantic provinces.

This is about driving down debt, improving services, improving the education of our people, building roads and infrastructure, and making our own contribution to Canada, making a significant contribution to Canada and not being just a drain. That is the importance of the Atlantic accords. This budget guts those accords and that is why, honourable senators, I will vote against this budget.

**The Hon. the Speaker:** Continuing debate?

Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** No.

**Some Hon. Senators:** Agreed.

Motion agreed to, on division, and bill read second time.

#### REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Comeau, bill referred to the Standing Senate Committee on National Finance.

#### GENEVA CONVENTIONS ACT ACT TO INCORPORATE THE CANADIAN RED CROSS SOCIETY TRADEMARKS ACT

#### BILL TO AMEND—SECOND READING

**Hon. Janis G. Johnson** moved second reading of Bill C-61, to amend the Geneva Conventions Act, to incorporate the Canadian Red Cross Society and the Trademarks Act.

She said: Honourable senators, I am pleased to speak with you today on Bill C-61, to implement the Third Additional Protocol to the Geneva Conventions. The Third Additional Protocol is also known by the name of Protocol III, and establishes the Red Crystal as an additional, distinctive emblem for the Red Cross movement.

Canada signed Protocol III in June 2006. That signature was a public undertaking that Canada intended to pass legislation so that we could ratify the protocol. This bill is the fulfillment of that undertaking.

The Geneva Conventions are fundamental pillars of international humanitarian law and govern the conduct of parties to an armed conflict. To date, 194 states are now



parties to the Geneva Conventions, making them the first international treaties to enjoy universal ratification. This underscores their critical importance and relevance in contemporary armed conflicts.

Bill C-61 was introduced in the House of Commons on June 8, which also marked the thirtieth anniversary of the Protocols I and II additional to the Geneva Conventions. These additional protocols provided a crucial framework to strengthen the protection of civilians and others in armed conflict, introducing essential rules on the conduct of hostilities and the methods and means of warfare. They enjoy wide support, with some 165 ratifications each.

For its part, Protocol III establishes an additional distinctive emblem — the Red Crystal — for the Red Cross and the Red Crescent movement. Distinctive emblems were developed to protect humanitarian workers of the movement to provide critical assistance to people affected by conflicts and natural disasters.

Allow me now to provide honourable senators with a description of what Protocol III is, an overview of the bill and what it does, and an explanation of the benefits of timely ratification for Canada.

Adopted in December 2005, Protocol III recognizes the Red Crystal as an additional emblem to the existing Red Cross, Red Crescent and red lion and sun, although the latter is no longer in use. It entered into force on January 14, 2007. The Red Crystal is meant to be free of extraneous religious or political connotations. It has taken more than 50 years to secure its agreement, primarily because the use became entangled in Middle East politics despite its humanitarian nature.

Protocol III will benefit those national societies of the Red Cross movement that are not comfortable with using either the Red Cross or the Red Crescent. For example, the national societies of Eritrea and Kazakhstan have indicated an interest in using the Red Crystal, which should facilitate their entry into the Red Cross movement.

Indeed, with the adoption of Protocol III, the entry into the movement of Megan David Adom — the Israeli society — and the Palestinian Red Crescent Society was facilitated in June of 2006. It is hoped that Protocol III will precisely help to further enhance the universality, impartiality and effectiveness of the Red Cross Movement in responding to conflicts and natural disasters wherever they occur worldwide.

• (2010)

Honourable senators, Protocol III provides that the Red Crystal enjoy the same status and conditions for its respect and use as those enjoyed by the existing Red Cross and Red Crescent emblems. Technical amendments to three Canadian acts — namely, the Geneva Convention Act, the Canadian Red Cross Society Act and the Trademarks Act — are required to comply with Protocol III. The amendments are not controversial and do not change the acts in substance. The Canadian Red Cross Society is supportive of these changes, as are concerned federal departments and agencies. There are no financial or environmental implications and no provincial or territorial considerations.

These amendments seek to give the same level of protection in Canadian law to the Red Crystal as enjoyed by the Red Cross. This bill offers the opportunity to strengthen the protection of the Red Crescent to the level of the Red Cross in the Canadian Red Cross Society Act.

With the coming into force of this legislation, the amendments would have the effect of prohibiting persons from wearing, using or displaying the emblem of the Red Crystal or the words “Red Crystal” or an imitation, except with the written authorization of the Canadian Red Cross Society, making it a crime to kill or seriously injure an enemy in a war by disloyally using the Red Crystal to feign protected status.

In closing, I would like to speak to the importance of timely ratification of Protocol III. In order to encourage the widest acceptance of the Red Crystal emblem, it is essential that as many states as possible ratify Protocol III. Canada can play a key role in this respect. If this bill is passed by the end of September, it will enable Canada to ratify Protocol III by the time of the International Conference of the Red Cross and the Red Crescent Movement to be held in November of this year in Geneva. The conference, which takes place every four years and brings together all parts of the movement, including 194 state parties and 186 national societies, is a key opportunity to promote the Red Crystal and Canada’s support for it.

Protocol III entered into force on January 14, 2007. Some 84 states have now signed, including Canada, the United States, Israel, Switzerland, Norway and some EU members. However, only 17 states have ratified it. The United States, an ardent supporter of the protocol, ratified Protocol III on March 8.

Canada’s timely ratification would effectively position our country to advocate for the wide acceptance of the Red Crystal. Quick ratification would also be consistent with Canada’s proactive role throughout the process, leading to the adoption of Protocol III and helping to resolve a long-standing irritant for the Red Cross movement for the past 50 years. It would facilitate our leadership with other states that retain reservations and allow us to enjoy the universal accession of like-minded countries, such as the United States, Switzerland, Norway, and some key European Union members, such as the U.K. and the Netherlands, which attach great importance to the Red Crystal. We need to implement our commitment to ratify as soon as possible and provide a key deliverable for Canada at the November 2007 conference.

These are the reasons for our government presenting Bill C-61 and asking the Senate to consider it on an expeditious basis.

[Translation]

**Hon. Eymard G. Corbin:** Honourable senators, after Senator Johnson’s introductory speech I would normally adjourn the debate to the next sitting of the Senate. However, I will not do that this evening.

The bill was presented and explained so well that it would be a waste of the Senate’s time to repeat the arguments in support of the bill that were presented by its sponsor, or to get into long, lively and historical debates about the Red Cross.

[English]

The bill should be sent to the committee for the hearing of witnesses and given proper consideration. On the face of it, there is nothing controversial about this bill as far as I know. What it seeks to accomplish makes sense and I know of no one so far who opposes the objective of the bill.

I will be pleased to cooperate with the sponsor to ensure its passage through all remaining stages of the process: committee stage, report stage and third reading. I would, if no other senators wish to speak, invite the Honourable Senator Johnson to make her closing speech on second reading.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to bill read second time.

#### REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read a third time?

On motion of Senator Johnson, bill referred to the Standing Senate Committee on Foreign Affairs and International Trade.

#### CRIMINAL CODE

##### BILL TO AMEND—SECOND READING

**Hon. Janis G. Johnson** moved second reading of Bill C-59, to amend the Criminal Code (unauthorized recording of a movie).

She said: Honourable senators, Bill C-59 will deter unauthorized videotape camcord activities in movie theatres in Canada. The bill amends the Criminal Code to ensure that local police are able to respond quickly and efficiently to the unauthorized recording of films.

The legislation is of vital importance in the age of the Internet. I read a news report today that Michael Moore's new film *Sicko* is available on YouTube. The site removed 14 small video segments, clips that had several hundred viewings before being removed. The source of the clips was a sneak preview of the film at a benefit fundraiser.

Kevin Tierney, the producer of the popular Canadian film *Bon Cop, Bad Cop*, said he learned two days before his film was to have been released that a man had been found with 2,500 copies of the movie. He was selling it door to door in a Montreal neighbourhood, along with alcohol and cigarettes. That is just to frame the situation properly for honourable senators. Mr. Tierney says it is stealing, and I would have to agree.

These are just two examples in this age of electronics and Internet. There are new crimes every day and there is no question we have a problem. I run a film festival and I know this is a major problem. Anyone can come into a theatre and start filming what is on the screen.

Honourable senators, our country has been accused of being responsible for half of the pirated films in global circulation. That is a Canadian record. In February, Canada was named to a priority watch list of countries believed to be responsible for high rates of piracy. This problem has threatened our ability to receive access to timely new releases from Hollywood studios. The act of pirating movies for distribution is already illegal under the federal Copyright Act. The offence carries fines up to \$1 million and up to five years imprisonment. Case law is also clear that the selling of pirated copyrighted materials constitutes fraud under the Criminal Code, regardless of whether there is actual economic loss to the copyright holder and/or any deception in regard to the authenticity of the DVD.

In the past, the law has been difficult to enforce because it could only be investigated by the RCMP and it put the onus on investigators to prove the recording was for a nefarious purpose. The onus will now shift to the front lines. The local theatre owners need to report these incidents to the local police. Bill C-59 will facilitate this.

• (2020)

Under this proposed legislation, two new offences are created. The first is simple camcording. The bill prohibits the recording of a movie in a movie theatre without the consent of the theatre manager. The second is camcording with a purpose. The bill prohibits the recording of a movie in a movie theatre without the consent of the theatre manager, for the purpose of selling, renting or other commercial distribution of a copy of the recorded movie.

Under this proposed legislation, simple camcording will be punishable by imprisonment of not more than two years, or on a summary conviction, by six months imprisonment or a fine of \$2,000, or both.

Camcording for the purpose of sale, rental or other commercial distribution of a copy of a motion picture is a more serious offence. In addition to proof, the accused engaged in unauthorized recording of a motion picture in a movie theatre requires proof that it was done for the purpose of selling, renting or other commercial distribution of copies of the film. Camcording for the purpose would also be a hybrid offence, but it would be punishable on indictment by imprisonment of not more than five years. Bill C-59 also provides the court with the authority to order the surrender of anything used in the commission of these offences, such as a camcorder.

Honourable senators, the motion picture sector is an important component of Canada's culture industries. Canada not only has a vital domestic film industry, creating films domestically and internationally, but is also an important part of the U.S. film industry, which locates much of its production in Canada. Canada is also part of the U.S. domestic market for film exhibition, with Canadians enjoying the first release of major U.S. motion pictures at the same time they are released in the United States.

Unfortunately, this makes Canada an attractive venue for camcording — the making of unauthorized copies of first-release films that are in high demand around the world where these films have yet to be released. Digital technology and the Internet have facilitated the illicit reproduction and distribution of films.



There is broad-based support across the film production, distribution and exhibition industry in Canada for an explicit legislative measure to stem the flow of illicit copies of films that are made and put into circulation. Accordingly, the government is taking decisive action that will make camcording movies in theatres illegal.

In doing so, Canada is joining in international efforts to protect the intelligent property interests of the film industry in Canada and abroad from those who would make unauthorized copies of newly released movies either for their own use or, with or without the participation of others, for the purpose of selling, renting or commercial distribution of the pirated movies.

Honourable senators, this bill is necessary. There is nothing wrong with protecting intellectual property, and I encourage its speedy passage.

**Hon. Dennis Dawson:** Honourable senators, I will follow in Senator Corbin's footsteps and congratulate the honourable senator for her presentation. I move that the Senate adopt this proposed legislation as quickly as possible. I also join Senator Corbin in congratulating the minister. I do not do that very often, as honourable senators know.

[Translation]

Honourable senators, I would first like to congratulate the Minister of Justice — it is rare for me to congratulate a Conservative minister and a Conservative senator in the same day — for tabling Bill C-59, which I think is essential for the protection of the Canadian film industry. I would also like to congratulate my colleague, the member for Notre-Dame de Grâce—Lachine, as well as the member for Hochelaga for their hard work in getting the government to create legislation on this issue.

It goes without saying that pirating films on Canadian soil is a major problem which we must look at. The emergence of new technologies and access to the Internet have greatly contributed to this phenomenon. With only a personal video camera, it is possible to make pirated copies available around the world. The situation is of such concern in Canada that some American distributors have threatened to delay releasing their films on Canadian screens by several weeks compared to the American market to protect themselves from piracy.

The Motion Picture Association of America stated that 20 per cent to 25 per cent of pirated movies found online or on DVD were recorded in Canadian movie theatres. The Canadian Motion Pictures Distributors Association estimates that its members had to absorb losses of US\$180 million due to illegal recordings made in Canada.

Furthermore, in his speech on Bill C-59, the Minister of Justice referred to a *Globe and Mail* article that mentioned that:

[English]

Canada was placed on a United States government watch list for a lack of intellectual property rights enforcement, along with the notorious film piracy hubs such as Lebanon, China, the Philippines and Russia.

This government should have a plan on cultural institutions and respond to our American counterparts. Had it not been for an American Republican governor, the "Governator," the minister probably would not have had permission from his Prime Minister to table this bill that had been requested for months. This new government must be proactive and initiate ideas, legislation and programs to protect, support and promote our culture. Let us hope that the next Speech from the Throne will be better than the last one on that measure.

[Translation]

It is important to bear in mind that, when discussing the issue of illegal recording, we are protecting our Canadian artists and creators first and foremost, not just the American industry. Think of the very successful Quebec move that the honourable senator mentioned, *Bon Cop, Bad Cop*, which was also pirated. In this regard, it is important to remember that the Canadian film industry is a vital component of our cultural industry. It provides employment for many people, from creators to performers to all kinds of technicians. It is the responsibility of Parliament to protect Canadian artists.

Honourable senators, even though the current government is tabling a bill to discourage the illegal recording of movies shown in theatres, it is nevertheless not doing enough in other areas. It is well and good to deal with illegal recording in movie theatres, but what is the government doing to control the scourge of illegal decoders and the pirating of signals in Canada? What is it doing to counter the continued weakening of the CRTC?

With respect to signal piracy, it is important to mention that groups have already submitted briefs to the government, but that the government has not followed up. Does Arnold Schwarzenegger have to come up here again to kick-start the government?

I would note that the government has not yet acknowledged the existence of Internet broadcasting activities not regulated by the Canadian Radio-television and Telecommunications Commission. For example, Jeff Fillion is now unregulated, which means that he can do whatever he wants with no threat of CRTC intervention. He sells his programming to subscribers and contributes nothing to the CRTC or the Canadian Television Fund, which conventional broadcasters are required to do.

I would like to remind the government that when it was in opposition, it opposed bills C-2 and C-52, both of which sought to strengthen measures enabling the authorities to fight piracy. Members of the distribution, programming and television industry appeared before the industry committee in the other place to discuss the negative impact of piracy. For example, money lost because of pirating in Quebec prevents licence holders from providing significant contributions to the Canadian Television Fund. These losses would be enough to produce two television series like *Omertà* and *Fortier* every year in Quebec.

Canada is known as a haven that shelters the biggest pirates. In Europe, it is not uncommon to find pirated cards that say "Made in Canada/Fait au Canada" on them. That is why people are asking that the Standing Senate Committee on Transport and Communications address the matter of signal piracy, because this illicit industry is tarnishing Canada's image abroad.

Although I fully support Bill C-59, I must say that the government should do more to convince the Canadian public of its interest in the cultural sector. The Canadian cultural industry is still waiting for the money the government promised in the last budget. Festivals throughout the country are the prime location for introducing Canadians to the most colourful cultural events and artists. The government should know that for the most part festivals are held in the lovely summer months and not in winter when it is -25° C.

In Quebec City, where I live, we are fortunate to have a summer festival that is an extraordinary showcase for our Canadian and Quebec artists. Honourable senators, the festival will run from July 5 to 15 — I would like to take this opportunity to invite my colleagues to visit beautiful Quebec City — but the festival needs federal support now; it has been receiving subsidies for 39 years and this year it is not receiving anything. While the government does nothing, the festivals across the country desperately need money and a number of cultural events are threatened.

• (2030)

This government must not only protect the film industry, but it must also establish concrete measures to support culture in all its forms. However, instead of taking concrete action, this government is attacking our cultural institutions. Because of the devastating cuts to the Museums Assistance Program announced by the government last fall, small, local museums across the country are forced to operate on a limited budget. The Canadian Museums Association, the Association of Manitoba Museums and the Alberta Museums Association, among other museum organizations across the country, have joined forces to denounce the lack of funding. This example shows once again that this government does not really care about Canada's culture and heritage.

Before closing, I would like to thank the Minister of Justice once again for tabling this bill, as well as all members of Parliament and honourable senators who will support it. As a senator and following the example of my Liberal colleagues, I am proud to support this bill. With this bill, Canada is taking a step in the right direction towards protecting the entire cultural film industry. I move second reading of this bill.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Johnson, bill referred to the Standing Senate Committee on Transport and Communications.

[English]

## NUNAVIK INUIT LAND CLAIMS AGREEMENT BILL

### SECOND READING—DEBATE ADJOURNED

**Hon. Hugh Segal** moved second reading of Bill C-51, to give effect to the Nunavik Inuit Land Claims Agreement and to make a consequential amendment to another Act.

He said: Honourable senators, I am privileged today to rise in this chamber and begin our consideration of Bill C-51, to give effect to the Nunavik Inuit Land Claims Agreement, which honourable senators will know passed in the other place quickly based on a concerted effort of bipartisan cooperation between the minister and the critics for all the parties in a way that I think brings great honour to our commitment to First Nations and to the possibility of cooperation when the matters before us are important and have a measure of earnestness and significance.

I did a bit of research on the bill and on the history because, as is the case with so many matters, there are people in this place who have far more experience — detailed, substantive hard working experience — on the land claims agreement which this bill puts into place. In doing my research, I found a negotiation framework agreement that was signed on August 19, 1993 by the Honourable Pauline Browes for the Government of Canada and Charlie Watt for the Makivik Corporation. Standing in my place today to make the case for legislation, I would be ahistorical if I did not express my great admiration for the work that Senator Watt has done in the north with the Inuit for so many years on a consistent and ongoing basis.

**Hon. Senators:** Hear, hear!

**Senator Segal:** For those of us who are new to this place, to be able to sit in the same chamber as an individual like Senator Watt, who has worked so hard for one of our First Nations, for one of our critical regions, and whose work is bearing fruit today in the proposed legislation that I have the great privilege of recommending for second reading, is truly a privilege.

When adopted by Parliament, Bill C-51 will put into effect the Nunavik Inuit Land Claims Agreement, a historic settlement between the Government of Canada and the Nunavik Inuit. This is a landmark agreement that will enable the Nunavik Inuit to preserve their ancient heritage, strengthen their vibrant community and foster increased growth in the northern economy.

Today, almost 10,000 Nunavik Inuit, more than half of whom are under the age of 30, live in 15 remote communities along the coasts of Ungava Bay, Hudson Bay and Hudson Strait in Northern Quebec. There are no roads to connect these communities to each other or to the south. The only means of travel is by air or by sea, and sea travel is only possible during the summer and autumn months.

For more than 4,000 years, the Nunavik Inuit have thrived in the north, inhabiting vast tracks of territory in what is now Northern Quebec and Labrador. These remarkably resourceful people, however, have spent the past several decades trying to cope with rapid and transformative changes brought on by modern life, changes that have forced the Nunavik Inuit to abandon their traditional, nomadic lifestyle and settle in permanent villages.

[Translation]

In recent years, the Nunavik Inuit have worked hard to establish the economic, political and cultural relations needed to regain their autonomy, re-establish a basis for sustainable development and improve their quality of life. The leaders of the Nunavik Inuit realized that a great deal remained to be done to ensure the prosperity and development of their community. They



therefore decided to work with governments and other aboriginal groups in order to reach a final agreement on the offshore marine region. The spirit of co-operation and the optimistic vision of the Nunavik Inuit resulted in Bill C-51, to give effect to the Nunavik Inuit Land Claims Agreement.

[English]

As I mentioned earlier, honourable senators, the bill will put into effect the Nunavik Inuit Land Claims Agreement that was signed by the Government of Canada and the Nunavik Inuit in December of last year. It was ratified by an overwhelming majority of 78 per cent of all the eligible beneficiaries and, in fact, more than 90 per cent of those who voted.

The area covered by the agreement includes the Nunavut offshore region adjacent to Quebec, composed of the islands and waters along the shores of James Bay, Hudson Bay, Hudson Strait and Ungava Bay, as well as a portion of northern Labrador and an offshore area near Labrador.

As a result of the agreement being submitted to this chamber for consideration, the Nunavik Inuit will own about 80 per cent of the total area of the islands in the region, known as the Nunavik Marine Region, a surface area of approximately 5,100 square kilometres. Ownership of these islands includes surface and subsurface rights, ensuring that the Nunavik Inuit will enjoy a substantial share of resource royalties that are expected to fuel economic growth throughout the region for years to come.

The agreement stipulates that the Nunavik Inuit will be entitled to 50 per cent of the first \$2 million in annual resource royalties generated from the Nunavik Marine Region. They will also receive 5 per cent of any further resource royalties received by the Government of Canada.

These royalties are in addition to a financial package worth roughly \$94 million that will be granted to the Nunavik Inuit. Some \$55 million of this amount will be in the form of a capital transfer from the Government of Canada to the Nunavik Inuit trust that will be paid out over the next 10 years. These funds will be distributed to the Nunavik Inuit, both individually and through representative groups, and used to address a variety of educational, social, cultural and socio-economic needs.

The remaining almost \$40 million will be used by the Nunavik Inuit to administer the agreement. Makivik Corporation, an Inuit-owned, non-profit organization that serves as the legal representative of the Nunavik Inuit, will receive and administer those funds.

[Translation]

I can assure you, honourable senators, that the Makivik Corporation has enjoyed a solid reputation in financial management and economic development for some time. Makivik was established in 1978 — our dear colleague Senator Watt was heavily involved — to administer and invest monies received from Inuit land claims under the James Bay and Northern Quebec Agreement.

[ Senator Segal ]

Since then, the Corporation has used the money from the agreements to set up and fund a number of successful Inuit companies, create jobs and enable the Nunavik Inuit to benefit from the many opportunities offered by the burgeoning northern economy.

• (2040)

[English]

Makivik has also played a leading role in helping the Nunavik Inuit preserve their culture, language and traditions, which are not only treasures they hold, but treasures all Canadians should value.

In addition to these vital financial measures, the agreement ensures that the Nunavik Inuit will share in commercial fishery opportunities in the region. Specifically, the Minister of Fisheries and Oceans will make available to the Nunavik Inuit 10 per cent of any new commercial fishing licences issued after the agreement comes into effect for identified species in a defined fishing area off the coast of Labrador.

To help safeguard the environment of the region while promoting economic growth, the agreement establishes three public governing institutions on which the Nunavik Inuit have been guaranteed representation. These institutions of public government are the Nunavik Marine Region Wildlife Board, the Nunavik Marine Region Planning Commission and the Nunavik Marine Region Impact Review Board.

The Nunavik Marine Region Wildlife Board will be the main instrument to manage and regulate wildlife in the Nunavik Marine Region. It will be the main regulator of access to wildlife. The Marine Region Planning Commission will establish, in conjunction with the federal government, planning policies, objectives and goals for the Nunavik Marine Region to develop land use plans for resource development. The Marine Region Impact Review Board will screen project proposals to determine the environmental impact of projects and will then monitor projects to ensure they abide by the environmental guidelines and processes.

[Translation]

The Nunavik Inuit Land Claims Agreement first had to address certain complicated jurisdictional problems. I will explain.

[English]

Land governed by the Nunavik Inuit Land Claims Agreement is under federal, provincial and territorial jurisdiction, and three Aboriginal groups have claims associated with portions of the claims area. Specifically, the Nunavik Inuit are residents of Quebec. However, the land that is subject to the agreement — traditional territory where the Nunavik Inuit have harvested wildlife for thousands of years — is under the jurisdictions of Nunavut and of Newfoundland and Labrador. Further complicating the issue, we have the original James Bay and Northern Quebec Agreement, of which Senator Watt was, in his remarkable work for his people, one of the signatories, along with the Nunavik Inuit and Quebec Cree. It deals only with the land areas in Quebec.

Compounding these marvelous complexities even further, since the signing of the James Bay and Northern Quebec Agreement, other land claim agreements have been signed by the Nunavut

Inuit and the Labrador Inuit, giving them rights over areas where the Nunavik Inuit assert Aboriginal rights.

On the jurisdictional front, the Government of Quebec is not a party to the Nunavik Inuit Land Claims Agreement, but Quebec officials have been kept fully briefed on the details of the agreement and are fully supportive of the final settlement.

The Government of Newfoundland and Labrador was not a party to the agreement, never having accepted the Nunavik Inuit claim in Labrador to begin with. The provincial government gave approval to the Nunavik Inuit and Labrador Inuit overlap provisions and was consulted about the certainty provisions contained in the agreement and agreed to those provisions.

The Government of Newfoundland and Labrador has not raised opposition to the agreement and is not expected to oppose Bill C-51 either.

Meanwhile, the Government of Nunavut and its predecessor, the Government of the Northwest Territories, has been part of the federal negotiating team since the beginning, providing regional perspective and input on issues within its jurisdiction. To address the myriad interests of the multiple Aboriginal parties with stakes in the land claim, the Nunavik Inuit Land Claims Agreement reflects three overlap agreements signed by the Nunavik Inuit with the Nunavut Inuit, the Quebec Cree and the Labrador Inuit.

The overlap agreements between the Nunavik Inuit and the Nunavut Inuit provide for the continuation of wildlife harvesting by both groups in traditional areas, regardless of the boundaries of land claim agreements. The agreement identifies areas of equal use and occupancy and provides for joint ownership of lands and the sharing of wildlife. It also ensures joint participation in regimes for wildlife management, land use planning impact assessment and the proper management of critical adjacent waters.

The Nunavik Inuit's overlap agreement with the Quebec Cree covers the northern part of the Quebec Cree claim and the southern part of the Nunavik Inuit claim in the offshore James Bay and Hudson Bay marine regions. In this area, three adjacent zones have been created: the Inuit zone, the joint zone and the Cree ZONE. The Inuit zone is designated to the Nunavik Inuit, but the Quebec Cree may also harvest there. The joint zone is shared by the two groups, and the Cree zone is designated to the Quebec Cree, but the Nunavik Inuit may also harvest there. The Nunavik Inuit and Labrador Inuit also share an overlap area of their two claims in Northern Labrador. This area happens to overlap with the boundaries of the new Torngat Mountains National Park Reserve.

In 1998, the Federal Court ruled that Canada has a duty to consult with the Nunavik Inuit prior to establishing any park reserve in Northern Labrador. The court also stated that the federal government had a duty to negotiate Nunavik Inuit claims to Aboriginal rights in Labrador prior to the establishment of any national park.

As a result of this ruling, in February 2003, the Nunavik Inuit and Labrador Inuit submitted a joint proposal to the federal government to resolve their respective overlap issues. Under this proposal, the park reserve would be recognized as a shared use

area in which both groups would share access to wildlife resources and negotiate a park impacts and benefits agreement.

Based on this proposal and subsequent negotiations, an overlap agreement was signed by Nunavik Inuit and Labrador Inuit in November of 2005. The Labrador Inuit Park Impacts and Benefits Agreement was concluded in January 2005, while the Nunavik Inuit Park Impacts and Benefits Agreement was concluded in December of 2006.

[Translation]

Honourable senators, I have explained the Nunavik Inuit Land Claims Agreement and the three joint use agreements because I wanted to demonstrate the comprehensive nature of the agreement. We all know, and history has proven, that comprehensive land claims agreements eliminate legal uncertainties, a major obstacle that limits the ability of Aboriginal peoples and their communities to reach their full potential.

[English]

In place of this uncertainty, Bill C-51 and the agreement on which it is based puts an end to any lingering doubts about who owns what or what their rights are in the Nunavut Marine Region and Northern Labrador. After 13 years of negotiations, honourable senators, Bill C-51 completes the unfinished business left over from the James Bay and Northern Quebec Agreement and settles, once and for all, all outstanding Inuit land claims in the region with broad, massive, democratic Inuit support.

Equally important, under the agreement, the Nunavik Inuit will release governments and others from all claims of past infringements of Aboriginal rights respecting lands and natural resources held by the Nunavik Inuit. The Nunavik Inuit will also replace ambiguous Aboriginal rights with those rights set out and guaranteed in the agreement. Armed with this certainty, the parties to the agreement, along with other potential investors and neighbouring communities, can now proceed with economic development initiatives in the region with full confidence. This stability and predictability in turn attracts investment, creating the conditions for prosperous, sustainable communities that can provide a better quality of life and standard of living for all people in the region.

Honourable senators do not need to take my word for it. Just look at what has been achieved in the North in the decades since the signing of the James Bay and Northern Quebec Agreement in Northern Quebec, or with the Innuvialuit and Gwich'en agreements in the Northwest Territories. Today, these isolated and once economically depressed regions employ thousands of people, in businesses ranging from oil and gas exploration, to air transportation and biosciences and are building a better tomorrow for future generations of First Nations.

[Translation]

Thanks to burgeoning economic development, major progress is being made in alleviating poverty, improving health and education services in communities and keeping languages and cultures vibrant. Are all Canadians not entitled to a future where they enjoy economic prosperity, social security and personal fulfilment?



[English]

In addition to these worthy economic and social goals, passage of Bill C-51 would enable us to act decisively and quickly to preserve the culture and livelihoods of the Nunavik Inuit, to protect the land itself, the wildlife that roams across its Arctic tundra and marine resources in the coastal waters, and to establish Canada's newest national park and the first ever in Labrador, Torngat Mountains National Park.

• (2050)

One of the most spectacular parks ever created, Torngat Mountains National Park, covers an area of almost 10,000 square kilometres; from Saglek Fjord in the south to the northern tip of Labrador, from the provincial boundary with Quebec in the west, to the Labrador Sea to the east.

[Translation]

By creating protected areas like Torngat Mountains National Park, we are conserving the purity of the natural spaces that define Canada at home and abroad.

[English]

Passage of Bill C-51 will enable the Nunavik Inuit to achieve genuine sustainable progress of their own. I urge honourable senators to support this legislation and ensure its speedy passage through this place. I know that Senator Watt, who is a very thoughtful observer and proponent of his First Nations interests and the interests of the whole region, does have concerns about this bill. We have had a chance to speak about them, and I benefited immensely from his advice and counsel on the issue.

I would hope, as we proceed towards second reading, we find a way to move this particular bill to committee as quickly as possible so those concerns can be addressed in a way where folks with specific and detailed information, invited as witnesses, can share their views with members of this place and members of the committee. Senator Watt has a particular concern about which committee might consider this matter. While some would say that it would normally go to Aboriginal affairs, I have been able to consult with my own leadership, who are more than supportive, if it is the will of the house, that it go to the Standing Senate Committee on Legal and Constitutional Affairs. Matters dealing with the proposition of certainty can be addressed in a fulsome fashion that reflects a large part of the concerns that Senator Watt has expressed. That is not for me to determine; that is for the Senate to determine in the fullness of time. I urge colleagues to engage so we might pass this legislation to committee as quickly as is humanly possible.

**Hon. Tommy Banks:** May I ask a question? I have no wish other than to move this matter to committee as quickly as possible. However, I may not be able to attend those meetings, and I have a couple of questions to which I would appreciate answers if the honourable senator is agreeable.

This act, as he has said, gives effect to an agreement. The agreement is not contained, per se, within the bill.

Did I understand the honourable senator to say that part of that agreement, as consideration for other things, is that the people who are affected by it are in effect agreeing to extinguish their rights?

[ Senator Segal ]

**Senator Segal:** The honourable senator will know that in talking about the extinguishment of rights and the whole question of certainty, he enters into an area of debate which is of great importance and sensitivity.

Let me say there is no extinguishment proposed in the legislation before this place. Instead, because of the debates legal and otherwise around what constitutes certainty around existing rights and how those rights might be defined in the future, what has happened is similar to what has been done in other agreements in that First Nations have agreed, in return for specific considerations, not to assert their rights as they might exist both under the Constitution and elsewhere. In their judgment they are receiving fair and appropriate recompense for deciding not to make that assertion. The notion of any total extinguishment in perpetuity is not something contemplated by this legislation.

What the agreement provides for is the First Nations signatories agreeing not to assert those rights without specifying in detail what those rights may or may not be. That has left this territory to be pursued over time as may be necessary in the event some dispute might come to bear. This notion of non-assertion as a way of providing a measure of certainty without going down the road of extinguishment has been used in other First Nations treaty agreements, and that is the same model being proposed here for consideration by this chamber.

**Senator Banks:** I know the committee will pay attention to that question.

Does that fact account for the absence, in this present legislation, of a clause which is most often contained in legislation having to do with Aboriginal matters; that is to say a non-derogation clause?

**Senator Segal:** This matter will be looked at in committee to make sure people are comfortable. I do not think the non-existence of a non-derogation clause is in any way an anticipation of any extinguishment of rights not otherwise addressed in the context of an agreement not to assert relative to the context of the legislation itself.

**Senator Tkachuk:** We are with you all the way.

**Senator Banks:** I hate to tell you this, but I actually understood that.

That is another question that I trust will be addressed by the committee.

**Senator Segal:** The agreement is a public document. While it does not have statutory status, it is referenced in the legislation as a public document. The words in the agreements are binding on all sides.

On motion of Senator Watt, debate adjourned.

**CANADA ELECTIONS ACT  
PUBLIC SERVICE EMPLOYMENT ACT**

**MESSAGE FROM COMMONS—  
DISAGREEMENT WITH SENATE AMENDMENT**

**The Hon. the Speaker:** Honourable senators, I have the honour to inform the Senate that a message has been received from the House of Commons which reads as follows:

**ORDERED:**

That the Clerk do carry back this Bill to the Senate and acquaint their Honours that this House has agreed to their amendments Nos. 1 to 11, however, amendment No. 12 has been amended and concurrence is desired.

AMENDMENT made by the House of Commons to Bill C-31, An Act to amend the Canada Elections Act and the Public Service Employment Act.

1. *Clause 42, page 17:*

(a) Replace line 23 with the following:

**"17 to 19 and 34 come into force 10 months".**

(b) Add after line 31 the following:

**"(3) Paragraphs 162(i.1) and (i.2) of the Canada Elections Act, as enacted by section 28, come into force six months after the day on which this Act receives royal assent unless, before that day, the Chief Electoral Officer publishes a notice in the Canada Gazette that the necessary preparations have been made for the bringing into operation of the provisions set out in the notice and that they may come into force on the day set out in the notice."**

**ATTEST:**

**AUDREY O'BRIEN**  
*The Clerk of the House of Commons*

On motion of Senator Nolin, message placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

**THE CRIMINAL CODE**

**BILL TO AMEND—SECOND READING—  
DEBATE ADJOURNED**

**Hon. Pierre Claude Nolin** moved the second reading of Bill C-23, to amend the Criminal Code (criminal procedure, language of the accused, sentencing and other amendments).

[English]

He said: Honourable senators, I appreciate having the opportunity to speak today on Bill C-23, to amend the Criminal Code, criminal procedure, language of the accused, sentencing and other amendments.

[Translation]

Fighting crime is a multi-faceted undertaking that requires a modern and efficient criminal justice system. The purpose of this bill is not to bring in major reforms, but to bring together a number of legislative changes that update and upgrade the current legislation.

• (2100)

Amendments like this are needed from time to time, and contribute to the proper functioning of our criminal justice system. Bill C-23 includes amendments aimed at updating, improving and modernizing certain provisions of the Criminal Code by enhancing the efficiency of criminal procedures, strengthening sentencing measures and clarifying court-related language rights provisions.

[English]

Most of these amendments are the result of changes that the provinces, territories and other stakeholders and have been instrumental in assisting the government.

The amendments contained in Bill C-23 fall principally within the three main categories: Criminal procedure, language of the accused and sentencing.

Without describing each amendment introduced by this bill, I propose to highlight some of them tonight.

[Translation]

I would first like to examine a few of the amendments made to the provisions concerning criminal procedures. Bill C-23 updates and clarifies the intention of many of these provisions, for instance, those dealing with proof of service of all documents, the endorsement of out-of-province search warrants, a new election for the accused regarding the mode of trial where the Supreme Court of Canada orders a new trial, and the reclassification of the offence of possession of break-in instruments.

[English]

With respect to the proof of service of court documents, one series of amendments will consolidate into one easily-referenced section of provisions dealing with proof of service of court documents such as notices and summonses. Subject to specific exemption provided in the Code, this general clause will present some standardized approach for dealing with proof of service of these documents.

With respect to the endorsement of out-of-province search warrants, one amendment will modernize and streamline the process by which they are transmitted and executed in a jurisdiction other than that where they have been issued.

Currently, in order to execute an out-of-province search warrant, the warrant must be presented to a judge or justice in its original paper form in the province where the search will take place so that it can be endorsed and subsequently executed.

The requirement that the original document be presented to the court in the other jurisdiction takes time and is labour as well as resource intensive. This amendment will allow the search warrant



issued in one province to be sent by facsimile or by other means of telecommunication to the other jurisdiction, thereby allowing a copy of the warrant to be endorsed by a judge or justice for execution in that other jurisdiction.

Another criminal procedure amendment will serve to clarify. It will set out the right of the accused person to change his or her mode of trial when the Supreme Court of Canada orders a new jury trial to be retried. This amendment will assist in avoiding unnecessary jury trials where the accused prefers to be retried by judge alone.

Before moving on to the other two categories, I will mention one last criminal procedure amendment. The offence of possessing break-in instruments is currently a straight indictable offence. The intent of the amendment is to reclassify this offence into a dual procedure offence or hybrid; that is, an offence for which Crown prosecutors may proceed by way of indictable offence or summary conviction procedure.

Currently, proceeding by indictment is the only option for prosecuting the offence of possessing break-and-enter instruments. However, experience has shown that this offence is often committed in conjunction with the offence of break and enter into a place other than a dwelling house, which is a dual procedure offence. The latter offence already provides prosecutors with the flexibility to choose the appropriate procedure, having regard to the facts of the case.

Reclassifying the offence of possessing break-in instruments into a dual procedure offence will offer prosecutors greater flexibility, including the possibility of proceeding, in appropriate circumstances, with one single trial for both offences. This amendment will contribute to more judicious use of resources of our criminal justice system.

[Translation]

I would now like to speak about the language rights of the accused in a criminal trial and the legislative amendments to clarify these rights. As you know, the right of an accused to be tried in either official language is not new. In fact, the right of an accused to be tried in the official language of his choice was first recognized by the Official Languages Act in 1969.

In 1978, and again in 1988, Parliament found it useful to broaden the scope of the language rights of an accused and to provide for the implications of criminal proceedings in the minority language. The existing sections 530 and 530.1 of the Criminal Code have been in effect since January 1, 1990. They provide an accused with the right to a preliminary hearing and trial before a court in his official language and to have a Crown attorney who speaks his official language.

Over the years, several problems of interpretation have been raised with respect to these provisions. The courts have had to grapple with these questions and their decisions demonstrate the need to fine tune current provisions. Studies by the Commissioner of Official Languages and the Department of Justice have also confirmed the need to make certain changes to these provisions.

The government consulted the Commissioner of Official Languages, French language common law jurists and their national federation as well as the provinces with regard to the

proposed amendments. In addition, both the Commissioner and the Federation appeared before the committee in the other place.

[English]

The purpose of these amendments is, therefore, to ensure better implementation of the language of trial provisions as well as to rectify some shortcomings identified in a number of studies by the courts.

For instance, one amendment would heed the Supreme Court of Canada judgment in *Beaulac* by requiring courts to inform all accused persons of the rights to be tried in their official language, whether or not they are represented by counsel.

The Commissioner of Official Languages, in a 1995 study entitled *The Equitable Use of English and French before the Courts in Canada*, also recommended that all accused persons be better informed of their right to a trial in the official language of their choice.

Another amendment will require that the charging document be translated in the language of the accused upon request. This follows court decisions requiring that such an important document be translated upon request since it is a logical complement to accused persons exercising their language rights.

Other amendments simply resolve certain anomalies and problems identified with the existing provisions. On the whole, these amendments bring the language of trial provisions of the Criminal Code in line with judicial interpretation while also removing some of the hurdles on the road to greater access to justice in both official languages.

[Translation]

I will now move on to amendments of the bill pertaining to sentencing. These amendments are for the most part technical in nature. They include provisions that seek to better represent the intent of the sections of the Code in this matter, to grant certain powers to the sentencing court, and to impose certain requirements.

• (2110)

[English]

With respect to clarifying amendments, this bill proposes provisions to set out clearly that the current minimum penalties that apply for a first, second and third impaired driving offence, including operation while impaired and refusing to provide a breath sample, also apply to more serious situations in impaired driving causing bodily harm or death. They are meant to respond to different interpretations by the courts as to whether the intent of these provisions is that the minimum penalties do apply to the more serious impaired driving situations involving bodily harm or death.

Bill C-23 also seeks to clarify that an offender is permitted to drive while subject to a driving prohibition order only if the offender is not only registered in the provincial alcohol ignition interlock device program but also complies with the provisions of such a program.

The bill also proposes to clarify that, where a person serving a youth sentence receives an adult sentence, only the remaining portion of the youth sentence is converted to an adult sentence. That portion of the sentence will be deemed one sentence of imprisonment for the purpose of determining parole eligibility, pursuant to the Corrections and Conditional Release Act. As it currently stands, the wording provides that when a person serving a youth sentence receives an adult sentence, the entire youth sentence should be converted to an adult sentence, which could result in the person being immediately eligible for release into the community upon conversion.

The bill also proposes an amendment to clarify that where no maximum jail term is provided in a federal statute for an offender who is in default of a monetary penalty imposed for an indictable offence, the maximum term of imprisonment will be five years.

Bill C-23 also proposes to provide sentencing courts with certain powers, including the power to order an offender not to communicate directly or indirectly with identified persons while serving a term of imprisonment and to enforce a penalty for breach of such an order; to delay sentencing proceedings so that an offender can participate in a provincially approved treatment program; and to order that a driving prohibition order be served consecutively to an existing prohibition order. Another amendment will set the maximum fine that can be imposed for a summary conviction offence at \$5,000, where no other maximum fine is provided in a federal statute.

[Translation]

As far as that last amendment is concerned, Bill C-23, as introduced by the government in the other place, proposed a maximum fine of \$10,000, which was then amended by that house's justice committee at the clause-by-clause consideration stage. Increasing the current fine of \$2,000 to \$5,000 instead of \$10,000 is still in line with the underlying policy, which is to update this provision and provide more flexibility to Crown prosecutors when deciding whether to proceed on summary conviction if they feel that a fine is appropriate punishment. However, the amount of the fine should exceed the current amount of \$2,000.

[English]

Finally, Bill C-23 seeks to impose certain requirements on sentencing courts to ensure that an offender receives an explanation from the court about the conditions of a prohibition order; an order imposing a fine; a conditional sentence order; and the consequences of failure to comply with any of these orders.

It may be strange, honourable senators, but it is true. That is why we must amend the Criminal Code.

These obligations will provide a mechanism to ensure that offenders receive the requisite information before they leave the courthouse. A corollary amendment will ensure that failure to give the offender the relevant information would not invalidate such an order.

[Translation]

In closing, I hope this very quick overview of the bill that I gave this evening shows that the purpose of this bill is not to proceed with an overhaul, but to propose amendments to maintain the

proper functioning of the criminal justice system and make amendments to improve, update and clarify the law with respect to various provisions of the Criminal Code.

Honourable senators, I am of the opinion that this bill should quickly be sent to the Standing Senate Committee on Legal and Constitutional Affairs. I hope that all honourable senators will share my opinion and support the bill. I would be pleased to answer any questions you might have.

On motion of Senator Tardif, debate adjourned.

[English]

## OLYMPIC AND PARALYMPIC MARKS BILL

### SECOND READING—DEBATE ADJOURNED

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors))** moved second reading of Bill C-47, respecting the protection of marks related to the Olympic Games and the Paralympic Games and protection against certain misleading business associations and making a related amendment to the Trade-marks Act.

She said: Honourable senators, I am particularly pleased to begin second reading debate of Bill C-47, the Olympic and Paralympic Marks Act. This is an important piece of legislation, as it will establish a solid and legal foundation for making the 2010 Winter Games in Vancouver the most successful ever.

Before turning to the bill itself, I would like to speak briefly about the 2010 Winter Games themselves, and what it means to our nation and to all Canadians to be accorded the privilege of hosting these prestigious events.

The 2010 Olympic and Paralympic Winter Games in Vancouver will be an opportunity for Canada to highlight to the world the excellence of our athletes, the vitality and diversity of our culture and our sense of hospitality. Canada's new government is proud to be a major partner of the games. Our commitment is clear. We have invested over \$552 million in the games. This financial support contributes to event and venue construction, and to essential services such as security and health care.

With just over 900 days to go before the opening ceremonies, we are already seeing enthusiasm build across the country. Canada's Cultural Olympiad has officially begun. The Olympic and Paralympic flags have arrived in Canada, venue construction is well under way, and construction is scheduled to begin this summer on the Olympic and Paralympic villages.

Honourable senators, these preparations give us a chance to promote health and fitness at home and to demonstrate Canada's diversity and excellence to the world. Most importantly, they allow us to build a legacy that benefits Canadian business, communities and citizens in every part of the country — a legacy that will live long after the games have ended.

I would like to speak briefly about some of these lasting legacies. The 2010 Winter Games will generate enormous economic benefits, including a substantial investment in



facilities and infrastructure, employment opportunities and a dramatic increase in international visitors before, during and after the games — a huge boost to the tourism industry nationwide.

• (2120)

Hosting the games will generate important social benefits as well, including providing opportunities to gain valuable training and work experience, the promotion of volunteerism and social enterprises and an increased emphasis on fitness, especially among our youth.

Canada is recognized as a world leader in promoting the Paralympic movement and the 2010 Winter Games will further enhance that reputation. I know Senator Fairbairn is very involved in this.

Once the games have ended, they will offer important benefits for Canadians with disabilities, including access to world class venues in Vancouver and Whistler. The 2010 Winter Games offer Canada an unparalleled opportunity to demonstrate on the world stage our leadership role in environmental sustainability. We will be able to showcase “made in Canada” sustainable technologies and best practices, ranging from innovative green facilities to alternative energy technologies. These, too, will benefit all Canadians long after the Olympic flame has been extinguished.

I would now like to speak about our athletes. Canada’s government is proud to support our Olympic and Paralympic athletes as they prepare to take on the world in 2010. Many of our athletes dream of the once-in-a-lifetime chance to turn their years of discipline, hard work and perseverance into success at home before Canadian fans.

To help this come about, a number of partners, including the federal government, have joined together to create the Own the Podium program. This initiative provides funding to Canadian athletes, coaches and support personnel to assist them in achieving podium success in 2010.

With this as a backdrop, I would like to remind honourable senators why Bill C-47 is important. Bill C-47 came about for two main reasons. First, it follows through on a commitment to the International Olympic Committee during the bid process phase of the 2010 Winter Games to adequately protect the Olympic and Paralympic brand if the games were awarded to Vancouver. Second, it will enable a Vancouver organizing committee for the 2010 Olympics and Paralympic Winter Games — VANOC for short — to maximize the private sector participation necessary to make the games a financial success.

Many companies are actively seeking opportunities to support the games as official partners and licensees. They are doing so out of a sense of pride. They are also doing so for sound business reasons. Bill C-47 makes it clear that these companies can sign on as official partners of the 2010 Winter Games and enjoy the benefits of that partnership. They can obtain licences to use Olympic signals and marks and enjoy the benefits of those licences.

Bill C-47 also responds to some gaps in current Canadian law. Although the current Trade-marks Act offers some protection to Olympic organizers with respect to Olympic signals, logos and words, the government is concerned that the act may not fully address the legitimate needs of Olympic organizers in responding to threats to their intellectual property rights.

The government is likewise concerned that the current legal framework does not provide sufficient protection against so-called “ambush marketing,” an increasingly common phenomenon in which non-partner companies find ways to falsely associate their businesses with the games in the public’s mind. The government is of the view that protecting Olympic and Paralympic marks is of sufficient importance to merit a stand-alone piece of legislation.

I will now speak to the essence of Bill C-47. The first thing Bill C-47 does is identify precisely what Olympic and Paralympic words, symbols and marks it serves to protect. These can be found in schedules 1 and 2 of the bill.

The next thing it does is identify VANOC, the Canadian Olympic Committee and the Canadian Paralympic Committee as the entities authorized to exercise the rights and remedies associated with these marks, or to licence those rights to their various corporate partners where appropriate. Bill C-47 then sets out two main types of conduct that would be prohibited.

The first prohibition applies to the use of an Olympic or Paralympic mark, or a mark that is likely to be mistaken for one, in connection with a business without the consent of VANOC until the end of 2010. After that, consent would have to be given by the Canadian Olympic or Paralympic committees.

The second prohibition applies to the so-called ambush marketing behaviour I mentioned earlier. It prohibits non-partner companies from behaving in a manner that is likely to mislead the public into believing that they or their products or services are endorsed by or otherwise commercially associated with the games, VANOC or the Canadian Olympic or Paralympic committees.

The bill sets out the various remedies available in the event these two prohibitions are not respected. For the most part, these are the same remedies available to rights holders under the Trade-marks Act, with one noteworthy exception, as I am about to explain.

Trademark litigation is often lengthy, and it can be very difficult to convince a court to put a stop to allegedly infringing activity pending the outcome of a trial. Given the short duration of the games and the tremendous potential for economic harm during that period, it is important that speedy interim remedies be available to immediately stop this type of misconduct. Bill C-47 thus provides that a rights holder, namely VANOC and the Canadian Olympic Committee and Canadian Paralympic Committee or a corporate partner, may apply to the court for an injunction against an alleged infringer or ambush marketer pending trial without having to prove it will suffer irreparable harm if the impugned activities continue.

Having to prove irreparable harm is the single greatest obstacle in convincing a court to grant this type of remedy in ordinary trademark cases. However, this is a time-limited exception that will expire at the end of 2010. Under Bill C-47, when a person or company seeks to profit improperly from the 2010 Winter Games, the legal framework will be in place for VANOC to protect its rights, and the rights of its partners and licensees, quickly and effectively.

As I have explained, Bill C-47 gives the designated Olympic organizers the authority to protect the Olympic brand from unauthorized and illegitimate use; but we have taken steps to ensure that the legislation is neither too broad nor oppressive.

Most importantly, it should be understood that Bill C-47 only applies in a commercial context. For example, the use of a protected Olympic or Paralympic mark is only prohibited when it is used in connection with a business. This phrase was taken from the Trade-marks Act and has been interpreted rather strictly by the courts. In order for the use of the mark to qualify as an infringement under the act, its primary purpose must be commercially driven. The use of a mark as a tool to promote goods and services in the marketplace would be the obvious example.

This distinction is key because some news coverage of Bill C-47 suggests that it could apply outside a commercial context to stifle artists' work or prevent individuals from parodying the games. That is not the government's intent, as evidenced by the "in connection with business" proviso and the inclusion of a "for greater certainty" provision, which confirms that the use of an Olympic or Paralympic mark in a news report, or for the purpose of criticism or parody, does not constitute infringement under this bill.

Should someone want to create a piece of art for non-commercial purposes, criticize the Olympic games in a sketch, publish an editorial cartoon or critique the games on a website or in a newspaper article, they can refer to an Olympic mark or include a representation of an Olympic logo as they see fit.

In addition, the bill contains a grandfathering provision that prevents it from applying to anyone who began using a protected Olympic or Paralympic mark before March 2, 2007, the date of the bill's introduction into the House of Commons. As a result, persons or companies that were already using an Olympic or Paralympic mark in connection with a business will continue to be able to do so without fear of facing legal proceedings under this bill, provided that the use in question relates to the same product or services or the same class of product or services as before.

• (2130)

Similarly, Bill C-47 contains a number of safeguards to protect the legitimate use of an Olympic or Paralympic mark in a business context. For example, a person may use such a mark in an address, in a geographical name of the place of business or to the extent necessary to explain a good or service to the public.

As well, honourable senators, the bill allows athletes to use certain protective words such "Olympian" or "Paralympian" for self promotion.

It is also important to remember that Bill C-47 has a time limit aspect. The special enforcement measures it confers will lapse on December 31, 2010, once the year of the games is over.

Finally, it is important to note that VANOC has committed to use its intellectual property rights under the bill in a disciplined, sensitive, fair and transparent manner. It will develop guidelines that describe the criteria and actions it will take to determine what types of activities it considers problematic under the bill.

I conclude my remarks today with a brief comment on the international context of Bill C-47. Much of the discussion on the 2010 Winter Games has been focused on Canada and what will happen here. This is not surprising given the tremendous economic and social benefits that all Canadians stand to derive from this event. However, the Olympics and Paralympics are among the most international of events. There is much we can draw from the experience of other host countries. Issues that Canada and the organizers of the games in Vancouver are addressing are ones where we can learn from the experience of others. That is the case when it comes to the protection of the Olympic and Paralympic marks and symbols.

In my remaining time, I shall comment on actions other countries have taken or are taking to achieve the same goals our government is seeking to achieve through Bill C-47.

Before I look to other countries, I can start here at home with the protection that Parliament provided for the symbols associated with the 1976 Olympics in Montreal. In July 1973, the 1976 Montreal Summer Olympic Games Act came into force and it included provisions for Olympic-related fund raising. In particular, it gave the federal government the power to raise funds through the issuance of Olympic coins and the holding of special lotteries.

In 1975, Parliament amended the act to include provisions that protected Olympic symbols. As committee testimony from that time makes clear, this change was designed to enable the Olympic Games organizing committee to raise funds through corporate partnership and licensing agreements. The amended 1976 Montreal Summer Olympic Games Act was broadly similar to Bill C-47 in many ways. It explicitly identified the relevant marks and gave exclusive rights of those marks to the organizing committee. The legislation set out prohibited uses of those marks and, similar to Bill C-47, contained a sunset clause, which automatically extinguished the special protection provided by the act at the end of the Olympic year 1976.

The similarities between the Montreal legislation and Bill C-47 extend to remedy provisions as well; for example, lowering the legal test for obtaining an injunction against a suspected contravention. Then, as now, we recognize the time-limited nature of the games and the corresponding importance of quickly putting a stop to behaviour that undermines their financial viability.

It is clear that Canada's Parliament has dealt with these issues before and Parliament responded with legislation fundamentally similar to Bill C-47. What began in support of the 1976 Montreal Olympics has since become standard practice world wide for countries hosting Olympic and Paralympic Games.

Let me offer a list of countries that have passed special intellectual property legislation in connection with specific games and marks: Australia, for the 2000 Summer Games in Sydney; Greece, for the 2004 Summer Games in Athens; Italy, for 2006 Winter Games in Turin; China, for the 2008 Summer Games in Beijing; and the United Kingdom, for the 2012 Summer Games in London.



It is not just the Olympic and Paralympic Games that are the object of the special intellectual property protection. This has also become the norm for many international sporting events. Countries hosting the Rugby World Cup, the Cricket World Cup and other major events have passed the kind of legislation that is before us at this moment. Those countries have acted to ensure that event organizers can provide reliable protection to their partners and licensees. These laws vary, of course. They reflect the different legal regimes and particular circumstances in each country.

However, I think it will be helpful if I comment on a few examples. Let me begin with Australia, a country with a very similar constitutional and legal system to our own. The Australian Parliament initially provided protection for Olympic marks under its Olympic Insignia Protection Act in 1987, and they updated that act in 2001. Under Australian law, the Australian Olympic Committee has the exclusive right to use the many well-known Olympic terms and symbols.

In 1996, the Australian Parliament built on the existing legislation when it passed the Sydney 2000 Games (Indicia and Images) Protection Act. That legislation protected a number of terms specific to the 2000 Games and included special expedited remedies for contraventions just as Bill C-47 does.

The Australian legislation also dealt with ambush marketing, as does Bill C-47. An example of that might be a television advertising campaign that does not use a prohibited Olympic or Paralympic mark but nevertheless cleverly creates a link in the public's mind between the advertiser's logo and that of the games. Not only was this phenomenon addressed in the legislation for the Sydney Games, but it is also now part of permanent legislation in Australia providing protection for Olympic symbols.

I will now look at an example of our neighbours to the south, the United States. The Ted Stevens Olympic and Amateur Sports Act has been in force since 1950 and was amended in 1988. It updates previous legislation that provided a legal framework for the United States Olympic Committee known as the USOC and other national sports groups. A key element in that law is that it gives the USOC the exclusive rights to Olympic marks in addition to protections that are provided under other legislation. The USOC has the exclusive right to use the various well-known symbols and terms associated with the Olympics and Paralympics. As is the case in Bill C-47 and in the Australian legislation, American law also includes prohibitions against ambush marketing.

Finally, let me use the example of the United Kingdom where Olympic marks are protected under the Olympic Symbol Protection Act. As in the other countries, the legislation provides for exclusive rights in relation to the use of Olympic and Paralympic terms and symbols.

Under the London Olympic Games and Paralympic Games Act 2006, the British Parliament has provided the organizers of the 2012 Summer Games in London with many similar protections to those we are proposing for the Vancouver-Whistler Games, including a sunset clause at the end of the Olympic year.

Bill C-47 is fully in keeping with Canadian precedent and international practice. It is a reasonable approach to the legitimate needs of the Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games.

Knowing how much Canadians will benefit from the 2010 Winter Games in terms of economic gain and enduring facilities, knowing that thousands of athletes and volunteers are eager to take part and knowing the world will be watching us, I urge honourable senators to support Bill C-47.

**Hon. Tommy Banks:** This is obviously a matter which has no partisan political interest, but I have two questions which perhaps the honourable senator can inform on later if not today. She referred to the sunset provision of this act, but it does not quite expire on December 31, 2010.

• (2140)

If one looks at the coming-into-force clause, the second part says that clause 13, which is the sunset provision, comes into effect on December 31, 2010. That repeals schedules 2 and 3 of this bill, but not schedule 1, which will remain in force. Schedule 1 sets out not the logos or phrases that are particularly applicable to the Vancouver Games, but the general Olympic words, in other words, the word marks and not the logo marks.

Am I correct that this proposed legislation will, in perpetuity, protect those words from their commercial use, as the honourable senator described?

The second part of my question is whether this will further enable actions. There is now an action in place in the state of Washington either by VANOC, the Canadian Olympic Committee or the International Olympic Committee — I am not sure which — requiring that a fairly long-standing business there stop using the word “Olympic.”

In northern Washington, there is the Olympic Peninsula and the Olympic Mountains. It is understandable that many businesses in that part of the world have the word “Olympic” in either their actual name or in word marks that they have been using for a long time. Notwithstanding the prior use, that action is now in place. Will this bill, when it comes into force, have any effect on that?

**Senator LeBreton:** I thank the honourable senator for the question. In answer to the first question, that is my understanding. I will seek clarification on that and I will provide the answer either before the bill is referred to committee or right away.

With regard to the situation in the state of Washington, we ran into a similar situation in Calgary during the Winter Olympics. There was a restaurant called “Olympic Pizza.” In my remarks, I mentioned organizations that had a similar name. We would not want another situation developing like Olympic Pizza in Calgary. This bill would not in any way interfere with an existing company that had a similar name but which was obviously not in competition and which could not in any way be construed as being in conflict with the actual Olympic Games.

**Hon. Joyce Fairbairn:** Just a comment, if I may. First, I want to thank Senator LeBreton for repeatedly including the Paralympians in her speech tonight. In the past, all too often, Paralympians have been left on the sidelines, yet they bring home

tremendous honours to our country, and they will again. They are already hard at it. I am delighted to see the enthusiasm of the government to be as inclusive as the leader clearly indicated tonight.

**Senator LeBreton:** I thank the honourable senator. Clearly, we think of the Olympics and the Paralympics as parallel events; it is not the Olympics and then, "Oh, by the way, the Paralympics." They are both important events for Canada standing on their own right, as the situation should be.

On motion of Senator Tardif, debate adjourned.

## QUARANTINE ACT

### BILL TO AMEND—SECOND READING

**Hon. Wilbert J. Keon** moved second reading of Bill C-42, to amend the Quarantine Act.

He said: Honourable senators, Bill C-42 completes the necessary legislation that allows the Public Health Agency of Canada to fundamentally do its job in the prevention of pandemics.

**Senator Segal:** Knock it off.

**Senator Keon:** I do appreciate the contributions from my straight man, Honourable Senator Segal, but sometimes it is difficult to concentrate.

**Senator Segal:** Make sure there are no trans fats.

**Senator Keon:** The combination of emerging and re-emerging infectious disease and the sharp increase in air travel since the 1980s have brought with them the risk that communicable disease in one part of the world can be easily transmitted to another part of the world.

I had the privilege of attending a World Health Agency meeting last week, as did Senator Pépin. Many of the authorities in the World Health Agency think this issue remains by far the greatest threat to humankind. In equatorial Africa and in South America we have by far the greatest pool of infectious disease ever known to humankind. A mutation of one micro-organism, coupled with the capability of transmissions through air travel, sea travel, et cetera, could wipe out tens of millions of the world's population in any location.

To address these risks, the new Quarantine Act is now in force. With the exception of section 34, which incorporates lessons learned from the SARS crisis in Toronto, the new act replaces the previous Quarantine Act, which has remained relatively unchanged for more than 100 years.

Modern tools in the new act enable screening and quarantine, and allow for environmental health officers to better assess public health risks and to implement comprehensive measures to protect the public's health. New authorities include the ability to convert conveyances to an alternate landing site should it be necessary to isolate travellers and to conduct health assessments, to establish quarantine facilities anywhere in Canada, and to make an order

prohibiting the entry of travellers arriving from a country outside of Canada where there has been an outbreak of a communicable disease.

These new tools became available with the coming into force of the new Quarantine Act. Specifically, the new authorities support an effective response to any potential influenza pandemic. Section 34 of the act is not in force, given the need for a minor technical amendment to the current order.

The bill will replace section 34 of the Quarantine Act with new wording. Section 34 obligates conveyance operators — that is, bus and truck drivers, pilots, and shipmasters — to report the need to take precautions in advance, before arriving in Canada, in the event of a public health issue arising on board.

The bill amends section 34 to require operators to notify the quarantine officer before the conveyance arrives at its destination in Canada rather than report to a designated authority situated at the nearest entry port, as specified in the current wording.

This was a serious defect in the previous legislation, because bus drivers, in particular, were sometimes not sure where the quarantine point was in coming into the country and did not know how to handle the situation.

• (2150)

The bill will ensure that Canada is in compliance with the global reporting obligations adopted under the newly revised international health regulations, to which Canada is a signatory.

The government will have access to the full range of authorities needed to protect Canadians from the onset and spread of communicable diseases. There is no risk to Canadians as a result of this proposed amendment.

With the exception of section 34, a modern Quarantine Act is now in force, giving federal officials access to the new and strengthened authorities to protect Canadians from contemporary risks to public health. The new Quarantine Act replaced existing quarantine legislation that had been in place protecting Canadians relatively unchanged for over 100 years. The new act maintains and enhances the federal government's authority to screen and assess, et cetera. In addition, new authorities provided to government the modern tools and the flexibility to address communicable disease outbreaks in an age where the effects are so potentially devastating. The Governor-in-Council has enacted a regulation that will maintain the status quo for conveyance operators in terms of advance public health reporting. This ensures that current advance notification obligations continue to apply, given that proposed new section 34 is not yet in force. The bill would come into force on Royal Assent, at which time proposed new section 34 of the Quarantine Act will come into force.

When Bill C-42 receives Royal Assent, we will have the full legislation necessary for the public health authorities, the RCMP and all the port and airport authorities and so forth in Canada to allow the social safety net to function and protect Canadians against a pandemic.

**Hon. Senators:** Hear, hear!



## [Translation]

**Hon. Lucie Pépin:** Honourable senators, as Senator Keon has said, Bill C-42 is not a controversial bill. We just need to clarify a few points. It can then be studied and easily improved if necessary. I therefore propose that this bill be referred to a committee for study.

Motion agreed to and bill read second time.

## REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Keon, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

## [English]

## KYOTO PROTOCOL IMPLEMENTATION BILL

THIRD READING—MOTIONS IN AMENDMENT  
AND SUBAMENDMENT—DEBATE CONTINUED—  
VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Trenholme Counsell, for the third reading of Bill C-288, to ensure Canada meets its global climate change obligations under the Kyoto Protocol;

And on the motion in amendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Angus, that Bill C-288 be not now read a third time but that it be amended:

(a) in clause 3, on page 3, by replacing line 19 with the following:

“Canada makes all reasonable efforts to take effective and timely action to meet”;

(b) in clause 5,

(i) on page 4,

(A) by replacing line 2 with the following:

“to ensure that Canada makes all reasonable efforts to meet its obligations”;

(B) by replacing line 6 with the following:

“ance standards for vehicle emissions that meet or exceed international best practices for any prescribed class of motor vehicle for any year,” and

(C) by adding after line 13 the following:

“(iii.2) the recognition of early action to reduce greenhouse gas emissions, and”;

(ii) on page 5,

(A) by replacing line 9 with the following:

“(a) within 10 days after the expiry of each”;

(B) by replacing line 23 with the following:

“first 15 days on which that House is sitting”, and

(C) by replacing lines 26 and 27 with the following:

“each House of Parliament is deemed to be referred to the standing committee of the Senate and the House of Commons that”;

(c) in clause 6, on page 6, by adding after line 29 the following:

“(3) For the purposes of this Act, the Governor-in-Council may make regulations restricting emissions by “large industrial emitters”, persons that the Governor-in-Council considers are particularly responsible for a large portion of Canada’s greenhouse gas emissions, namely,

(a) persons that are part of the electricity generation sector, including persons that use fossil fuels to produce electricity;

(b) persons that are part of the upstream oil and gas sector, including persons that produce and transport fossil fuels but excluding petroleum refiners and distributors of natural gas to end users; and

(c) persons that are part of energy-intensive industries, including persons that use energy derived from fossil fuels, petroleum refiners and distributors of natural gas to end users.”;

(d) in clause 7,

(i) on page 6,

(A) by replacing line 32 with the following:

“that Canada makes all reasonable attempts to meet its obligations under”, and

(B) by replacing line 38 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 7, by replacing line 4 with the following:

“(3) In ensuring that Canada makes all reasonable attempts to meet its”;

(e) in clause 9,

(i) on page 7, by replacing line 33 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 8,

(A) by replacing line 3 with the following:

“Minister considers appropriate within 30 days”,  
and

(B) by replacing line 7 with the following:

“(1) or on any of the first fifteen days on which”;

(f) in clause 10,

(i) on page 8,

(A) by replacing line 9 with the following:

“10. (1) Within 180 days after the Minister”,

(B) by replacing line 11 with the following:

“tion 5(3), or within 90 days after the Minister”, and

(C) by replacing line 38 with the following:

“(a) within 15 days after receiving the”, and

(ii) on page 9,

(A) by replacing line 6 with the following:

“Houses on any of the first 15 days on”, and

(B) by replacing line 9 with the following

“(b) within 30 days after receiving the advice,”;

(g) in clause 10.1, on page 9,

(i) by replacing line 17 with the following:

“and Sustainable Development may prepare a”,

(ii) by replacing line 32 with the following:

“report to the Speakers of the Senate and the House of  
Commons”, and

(iii) by replacing lines 34 and 35 with the following:

“Speakers shall table the report in their respective  
Houses on any of the first 15 days on which that  
House”.

**Hon. Consiglio Di Nino:** I rise to participate in the debate on the proposed amendment to Bill C-288.

Honourable senators, several questions still remain with this bill. Questions about economic impacts, questions with respect to provincial concerns and questions about the impossible timelines have not been adequately addressed by this bill's proponents.

Instead, opposition members have glossed over serious scrutiny of the public policy consequences of this bill, to the detriment of the important cause of greenhouse gas mitigation.

Honourable senators, all evidence and recent developments considered, the fact remains that Bill C-288 is a desperate political manoeuvre, a last-gasp attempt to misuse and abuse the lawmaking process to hamstring the Government of Canada by foisting upon it a clumsy, unworkable and unattainable process, thereby giving a false impression that Canada can and will actually achieve the Kyoto targets.

As the recent proceedings at the G8 summit in Germany illustrate, the major industrialized countries of the world are moving rapidly to prepare for a post-Kyoto reality with respect to global greenhouse gas mitigation.

On this front, preparing for the post-Kyoto reality, the Government of Canada has taken a leadership role. First, upon taking office, Canada's new government did something that the opposition has failed to do: We recognized that Canada's Kyoto targets are unattainable within the short time left for the start of the 2008-12 period.

I would remind honourable senators that the Kyoto target is not 2012, as some environmentalists and writers now argue. The goal is to reach the target in just six months from now, on January 1, 2008.

**Senator Oliver:** Impossible.

**Senator Di Nino:** Thank you; I agree with you. The goal is to maintain that level of emission for the following four years. That goal for Canada is a 33 per cent reduction in emissions, which is to say, 6 per cent below the 1990 emission levels, beginning in just six months time.

If we miss that goal, as we surely will, greater reductions are required in subsequent years to compensate. Each year that we miss the target means that ever-larger reductions are required. The government recognizes, even if the proponents of this bill do not, that the Kyoto target is now out of reach unless Canada and Canadians are prepared to endure severe economic consequences, the likes of which we have not seen since the disastrous Liberal National Energy Program.

**Some Hon. Senators:** Oh, oh!

**Senator Oliver:** I remember that.

**Senator Tkachuk:** We remember it full well.

**Senator Di Nino:** In concluding that the Kyoto targets are no longer realistically achievable for Canada, the government has received some surprising support from certain quarters.

I will tell honourable senators who supported this.

For instance, since the time this bill was first introduced in the other place, Liberal leader Stéphane Dion has himself acknowledged that Canada would not meet its Kyoto targets.

**Some Hon. Senators:** Hear, hear!



**Senator Di Nino:** They did not get it done. Unfortunately, sponsors and supporters of this bill in this place have yet to effectively address this point made by their own leader.

Another Liberal of influence, Eddie Goldenberg, has also made statements supporting the same conclusions reached by Stéphane Dion.

• (2200)

Again, one would think that upon reviewing the interventions made by the supporters and sponsors of this bill, there would be some kind of coherent response to the points made by Eddie Goldenberg and the current Leader of the Liberal Party, but none has been forthcoming. Instead, we have witnessed an attempt by the opposition to revisit the past with respect to Kyoto, even as the rest of the world moves forward.

Why are they doing this with Bill C-288? Perhaps the proponents are trying to make the Canadian public to forget about the pathetic record of the federal Liberals on climate change.

**Senator Oliver:** That is exactly what it is.

**Senator Di Nino:** After all, theirs was a performance that saw Canada's greenhouse gas emissions rise during their tenure in office until it was 33 per cent above the Kyoto target.

**Senator Oliver:** Shame.

**Senator Di Nino:** Emissions rose 33 per cent. That is a target that they accepted. As well, honourable senators, why has the opposition proceeded with Bill C-288 when they know full well the serious economic impacts associated with attempting to reach those targets they signed onto.

**Senator Mitchell:** Senator "Chicken Little."

**Senator Di Nino:** I would not point fingers. When you point your finger, three point back at you, my friend.

**Senator Mitchell:** Nothing but disaster.

**Senator Di Nino:** Listen and you may learn something.

**Senator Cowan:** I do not think so.

**Senator Di Nino:** Government projections show that attempting to meet the Kyoto targets would result in 275,000 lost jobs and a 4.2 per cent decline in GDP. Is that what you want?

**An Hon. Senator:** No.

**Senator Di Nino:** Does the opposition not care about such a potential cost?

**An Hon. Senator:** No.

**Senator Di Nino:** Do they not care about the tens of thousands of lost jobs?

**Some Hon. Senators:** No.

**Senator Di Nino:** Do they not care about the lives and livelihoods of Canadians that would be impacted by this bill?

**Senator Segal:** No.

**Some Hon. Senators:** No.

**Senator Di Nino:** Shame on them. They have also ignored projections that show electricity bills will jump 50 per cent after 2010, that the cost of filling up a car will jump 60 per cent, and that the cost of heating a home with natural gas will double. Tell that to your senior citizen constituents.

**Senator Cordy:** Gas has already gone up 60 per cent.

**Senator Di Nino:** Maybe you can afford it but most of the constituents in this country cannot.

Instead, in their advocacy of Bill C-288, the opposition is being dismissive of these economic cost projections provided to the committee, should Canada attempt to adhere to the Kyoto targets.

**Senator Tkachuk:** Irresponsible.

**Senator Di Nino:** Of course, these same Liberals were dismissive of the claims that the Firearms Registry would cost no more than half a billion dollars, a claim that proved to be an understatement, to say the least.

**Senator Fox:** You are being partisan.

**Senator Di Nino:** It is certainly the right of opposition members to urge that Canada attempt to reach the targets. It is their right to complain if we do not make the attempt and if we do not succeed. To attempt to compel the government through this bill to severely damage the economy, to compel the government to throw Canadians out of work, to compel the government to drive businesses out of the country or into bankruptcy, all to achieve in six months what the Liberal government did not and could not do in ten years is absolutely irresponsible.

**Senator Milne:** What is your amendment?

**Senator Di Nino:** You can wait for that. I will tell you.

This bill is not about advancing sound and responsible public policy. This bill is about politics in the worst sense of the word. What is happening is simply an abuse of power and an abuse of process, and it is utterly irresponsible.

Honourable senators, both the political and public policy landscape with respect to Canada's efforts to address climate change is shifting. The page is being turned on this matter. As the discussion evolves, left behind will be the stale debate that the Liberals and yesterday's environmentalists are still trying to promote with respect to the 2008-2012 Kyoto targets.

Left behind will be the sorry record of the Liberals on climate change. Left behind will be the political gamesmanship that the Liberals have been playing. The focus will be on Canada's new plan to reduce greenhouse gas emissions by 60 per cent to 70 per cent over 2006 levels as set out in *Turning the Corner*:

*An Action Plan to Reduce Greenhouse Gases and Air Pollution*, and the recent agreement by the G8 countries to participate in the process to follow the Kyoto Protocol.

**Senator Segal:** Responsible! Practical!

**Senator Di Nino:** Already the government is receiving support for its actions. For example, an editorial that recently appeared in the *Winnipeg Free Press* on June 6 stated the following about the new government's climate change policy:

Canada's strategy in the war on climate change is different from Europe's, and anathema to the eco-extremists back home, but it is a useful and workable policy that might, if it were adopted by other nations, help to control global warming more effectively than Kyoto dreaming ever will. Mr. Harper touts it as a model and it could be that, particularly for nations that do not have the benefit of being able to meet Kyoto's requirements by happy circumstance, as the Europeans did. Germany and Russia met them by shutting down antiquated, highly polluting industries that were no longer profitable after the Cold War. Britain met it after Margaret Thatcher forced the nation to switch from coal to oil and natural gas as fuels for homes and industries. France did it by riding on the European Union's "all-for-one" emission quota.

The editorial goes on to say:

Canada could easily meet Kyoto's requirements by shutting down Ontario or Alberta, but no serious politician has yet suggested that — even Mr. Dion has only flirted with the idea of closing Alberta.

Other voices have also endorsed the approach and leadership provided by Canada's New Government. Commenting on Canada's efforts at the G8 Summit, John Kirton, Director of the G8 Research Group at the University of Toronto, stated that Prime Minister Harper "succeeded" in demonstrating that this country's "made-in-Canada climate-change plan was internationally respectable . . . .

Finally, honourable senators, Hans Verolme, Director of the World Wildlife Fund's Global Climate Change Programme, said with respect to developments at the G8 meeting:

. . . the support by the EU, Japan and Canada to cut carbon pollution by 50 per cent by 2050 means we are a step closer to taking real action on the world's climate.

These are some sensible and credible endorsements.

#### MOTION IN SUBAMENDMENT

**Hon. Consiglio Di Nino:** Honourable senators, obviously I have given you something to think about. We can improve the bill by an amendment that I will propose. Accordingly, I move:

That the motion in amendment be amended by replacing paragraph (g) with the following:

(g) in clause 10.1, on page 9, by replacing line 17 with the following:

"and Sustainable Development may prepare a "

I urge all honourable senators to support this amendment.

**Senator Milne:** It is okay if you forget to sign it.

**Senator Corbin:** Whoever wrote that speech, it is time for amendment.

**The Hon. the Speaker:** Honourable senators, the sub-amendment was moved by the Honourable Senator Di Nino, seconded by the Honourable Senator Oliver, that the motion in amendment be amended by replacing paragraph (g) with the following:

**Hon. Senators:** Dispense.

**The Hon. the Speaker:** Debate?

• (2210)

**Hon. Jeremiah S. Grafstein:** Will the honourable senator allow just one question?

**Senator Di Nino:** I think the Speaker put the amendment.

**The Hon. the Speaker:** I am afraid he has no time. We are in debate on the sub-amendment. Are honourable senators ready for the question on the sub-amendment?

**Hon. Senators:** Question!

**The Hon. the Speaker:** It was moved by the Honourable Di Nino, seconded by the Honourable Senator Oliver — shall I dispense?

**Hon. Senators:** Dispense.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** All those in the favour of the motion will signify by saying "yea."

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** All those opposed to the motion will signify by saying "nay."

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** I think the "nays" have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** Is there advice from the whips?

**Hon. Terry Stratton:** According to rules 67(1), (2) and (3), we would defer the vote until tomorrow at 5:30.

**The Hon. the Speaker:** The vote will be held tomorrow at 5:30, with a 15-minute bell.



# NATIONAL CAPITAL ACT

## BILL TO AMEND—REPORT OF COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the eighth report of the Standing Senate Committee on Energy, the Environment and Natural Resources (Bill S-210, to amend the National Capital Act (establishment and protection of Gatineau Park), with amendments and observations), presented in the Senate on June 7, 2007.—(*Honourable Senator Banks*)

**Hon. Tommy Banks**, moved adoption of the report.

He said: According to rule 99, I wish to explain to honourable senators the subject matter and the effect of the amendments that have been proposed and to quote to honourable senators the recommendation that has also been attached to the report of the committee.

There are two amendments. The first amendment is in two parts. The first part is a clause that dedicates Gatineau Park to the people of Canada and provides that it will be used and maintained in accordance with the principle that future generations can enjoy it; the second part is a clause that provides that ecological integrity will be the National Capital Commission's first priority in considering the management of Gatineau Park.

Honourable senators, in respect of that amendment, I should like to read the response of the National Capital Commission to a letter from me asking whether they support that amendment. I shall quote in part from their response in respect of the first amendment. This is letter from Ms. Micheline Dubé, the Chief Executive Officer of the NCC in response to my question as to whether they would support such an amendment:

Yes, we would support an amendment that gives priority to ecological integrity in the management of Gatineau Park. Pursuant to the 2005 Gatineau Park Master Plan, the NCC's primary objective in managing Gatineau Park is to preserve the health and integrity of the park for current and future generations, while allowing environmentally-respectful recreational experiences for Canadians. This proposed amendment would put in legislation what the NCC has set out as the long-term direction for Gatineau Park and would ensure this objective does not change without Parliamentary approval.

The second part of the first amendment is one that repeats that ecological integrity will be the NCC's first priority.

The second amendment was drafted by the Senate's parliamentary counsel in response to a concern that the section in Bill S-210 as it was presented to us dealing with first refusal rights is susceptible to a circular interpretation that would prevent the NCC from purchasing land within the park boundaries. This is a question that was pointed out to us by Senator McCoy. It is a technical amendment that merely clarifies the language and ensures that the intent of the drafters is respected.

The NCC said the following about it, which inspired our law clerk to write the amendment. I quote from the same letter:

Although it was clearly not the intention of the drafters of Bill S-210, the NCC is of the view that the current text of subsections 13.2(1) and (2) supports the interpretation . . . that the owner of real property situated in Gatineau Park may only sell that property if two conditions are met: the property is first offered to the NCC and the NCC expressly declines the offer or does not accept the offer within 60 days of receiving the offer. This suggests that, on a strict reading of the text, the NCC would be unable to purchase real property in Gatineau Park within 60 days of it being offered for sale to the NCC. Ironically, after the 60-day offer period expires, a sale to the NCC would be possible, but third party purchasers would also be able to validly acquire the land and the NCC would enjoy no pre-emptive right.

Therefore, honourable senators, the second amendment corrects that and restores the intent of the drafters of the bill by replacing, on page 4, clause 5, line 3, with the following:

Park to anyone other than the Commission unless the person has given the right of

and then continuing the rest of the section.

These two amendments presented by the committee are supported by the NCC. I have read you excerpts from their letter to demonstrate that.

In addition, there is a recommendation from the committee in respect of the bill, which is:

The Committee recommends that, in the interests of the ecological integrity of Gatineau Park, the National Capital Commission consider limiting automobile traffic in the Park, and consider the use of alternative fuel vehicles.

Once again, honourable senators, I move the adoption of the report.

**The Hon. the Speaker:** It was moved by the Honourable Senator Banks, seconded by the Honourable Senator Moore, that this report be adopted. Is there further debate on the motion?

**Hon. Pierre Claude Nolin:** I move adjournment of the debate.

**The Hon. the Speaker:** I wonder whether the honourable senator would just hold that for a moment. For procedural clarity, in order for the question to be put before the house, I probably should have risen before Senator Banks exercised his responsibility pursuant to rule 99 to put the question. When you read rule 99, indeed it says that the chairman of a committee is to provide an explanation to their amendments, but I think we need to get a question before us, which is why I probably should have first put one. Is it deemed to have been put?

**Hon. Senators:** Agreed.

On motion of Senator Nolin, debate adjourned.

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

### SIXTH REPORT OF COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the sixth report of the Standing Committee on Rules, Procedures and the Rights of Parliament, (amendments to the Rules of the Senate—reinstatement of bills from the previous session of the same Parliament), presented in the Senate on June 6, 2007.  
—(*Honourable Senator Keon*)

**Hon. Wilbert J. Keon:** I move the adoption of the report standing in my name.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion? Debate?

**Hon. Anne C. Cools:** Is Senator Keon not going to explain?

**Senator Keon:** I shall explain.

**Senator Cools:** He can do it later. It is not a problem.

**Senator Keon:** I would be happy to do it now. I was intending to let it go because, as honourable senators know, there was prolonged discussion and debate on this report when Senator Di Nino was chairing the Standing Committee on Rules, Procedures and the Rights of Parliament, and I inherited the debate. We brought it to a conclusion.

The report fundamentally lays out 11 scenarios that can occur when bills are reinstated from the previous session of the same Parliament.

• (2220)

There are 11 scenarios that were discussed and reported upon in this report. I thought perhaps it was better if people read the report that was circulated.

If the honourable senator wishes, I will go through the 11 scenarios.

**Senator Cools:** No, I was just trying to be supportive of the Speaker as he set this process in motion. I would be happy to have the honourable senator adjourn the debate and explain another day because it is quite late. I can take the adjournment for him and he can explain another time.

**Senator Keon:** Maybe I can explain it now. Fundamentally what these 11 scenarios consist of, is that at the time of prorogation, if a bill was under debate at second reading —

**Senator Cools:** There is no reading; it is a report. Why does the honourable senator not just take the adjournment?

**Senator Keon:** It will take considerable time to get through this. I will be happy to adjourn the debate.

On motion of Senator Keon, debate adjourned.

## STUDY ON NATIONAL SECURITY POLICY

### INTERIM REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Atkins, seconded by the Honourable Senator Murray, P.C., for the adoption of the eleventh report (interim) of the Standing Senate Committee on National Security and Defence, entitled: *Canadian Security Guide Book 2007: An Update of Security Problems in Search of Solutions — Coasts*, tabled in the Senate on March 27, 2007.—(*Honourable Senator Tkachuk*)

**Hon. David Tkachuk:** Honourable senators, due to other duties I have not prepared the comments I wish to make on this report. Therefore, I would like to move the adjournment of the debate.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

On motion of Senator Tkachuk, debate adjourned.

## STUDY ON NATIONAL SECURITY POLICY

### INTERIM REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Atkins, seconded by the Honourable Senator Spivak, for the adoption of the ninth report (interim) of the Standing Senate Committee on National Security and Defence, entitled: *Canadian Security Guide Book 2007: An Update of Security Problems in Search of Solutions — Seaports*, tabled in the Senate on March 21, 2007.—(*Honourable Senator Tkachuk*)

**Hon. David Tkachuk:** For the same reason, honourable senators, I move the adjournment of the debate.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

On motion of Senator Tkachuk, debate adjourned.

## POST-SECONDARY EDUCATION

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Tardif calling the attention of the Senate to questions concerning post-secondary education in Canada.—(*Honourable Senator Dyck*)

**Hon. Lillian Eva Dyck:** Honourable senators, it is my pleasure to join the debate on the inquiry of Honourable Senator Tardif calling the attention of the Senate to questions concerning post-secondary education in Canada.



As indicated previously, I will focus my remarks on Aboriginal post-secondary education in Canada with a particular focus on Saskatchewan. I will share with honourable senators a large number of statistics. It is important to share these statistics because government policy is based on statistics that have been published. The statistics I will present today are some that I compiled myself from the Statistics Canada results posted on their website.

I will talk about the different demographics between the Aboriginal and the non-Aboriginal nations in Canada and in Saskatchewan. I will talk about barriers and focus on one particular solution that was put forward by the Standing Committee on Aboriginal Affairs and Northern Development in the other House.

To briefly review the statistics in Canada from 2001, 3 per cent of the Canadian population is Aboriginal. In Saskatchewan, 14 per cent of the population is Aboriginal and that is closely matched with our neighbouring province, Manitoba, which is also about 14 per cent. We have the highest Aboriginal population in Canada.

In Saskatoon, the percentage of the population that is Aboriginal is 9 per cent. As I said, this was in 2001. In 2006 those percentages will have grown.

In Canada, the majority of Aboriginals are in the Indian population; 62 per cent were Indian, 30 per cent were Métis, 5 per cent were Inuit and 2 per cent were multiple identifications because of inter-marriage issues.

It is important to note that there are vastly different patterns in the numbers, percentages and subtypes of Aboriginal peoples in the different provinces and territories in Canada. What occurs in the Prairies is very different from what occurs in Nunavut.

Compared to the rest of the Canadian population, it is true that the Aboriginal population as a whole is relatively young and growing more rapidly. That is, we have a higher birthrate in the Aboriginal population than we do in the non-Aboriginal population. It is estimated that one-quarter of the Aboriginal population is below the age of 14, which indicates the relative youth of the population. This is important to remember because in my mind this is like a brown baby boom.

Some of us belong to the baby boomers. Mainstream Canadian society is composed mainly of aging baby boomers with very few children. The Aboriginal population is relatively young with a high birthrate. With the strength of those numbers we will see a sea change in Canada; maybe more dramatically in the Prairies because of the percentages. We must address this and must put plans in place to manage the situation so that this group will be able to escape from the cycle of poverty. Education is the way to get out of that cycle of poverty.

It has been predicted that by 2017, 21 per cent of the population in Saskatchewan will be Aboriginal. It has been predicted that by 2045, 50 per cent of the population of Saskatchewan will be Aboriginal. Honourable senators will understand that with rapid growth comes the need to manage the change.

As in the rest of Canada, the majority of Aboriginal people in Saskatchewan are Indian; 64 per cent were Indian in 2001, 34 per cent were Métis and 0.2 per cent were Inuit.

In Canada in 2001, Aboriginals lagged behind non-Aboriginals at all levels of education. I deliberately looked at the age group 25 to 44 because I know it takes Aboriginal people longer to complete high school and post-secondary education at the university level. It is very important to select the right age group to look at.

Looking at that age group of 25 to 44, 35 per cent of the Aboriginal population had less than a high-school completion. This sounds terrible, but it is interesting to note that 17 per cent of the non-Aboriginal population also had less than a high-school completion. The mainstream non-Aboriginal Canadian society does not have a very high rate of high-school completion.

• (2230)

If we look at granting bachelor's degrees in university, 5 per cent of the Canadian Aboriginal population had a bachelor's degree compared to 16 per cent for non-Aboriginals. In other words, Aboriginals were only at one-third the rate for completion of a university bachelor's degree. Obviously, something needs to be looked at and changed.

If all things were equal in Canada, that is, the Aboriginals had equal access to post-secondary education, if they had equal economic benefits, equal social benefits, 47,676 Aboriginals rather than 14,105 in the age group 25 to 44 would have had a bachelor's degree in 2001. Some 33,000 more Aboriginal people would have had a bachelor's degree if all things were equal.

Similarly, if all things were equal, 10,547, rather than 1,490 Aboriginals would have had a master's degree. And 1,582 rather than 155 would have had an earned doctorate.

The post-graduate degrees, especially at the earned doctorate level, are important to record because usually an earned doctorate is a minimum qualification to teach at a university. It is important to have Aboriginals represented at the teaching faculties at the universities and to do that they need a doctorate degree.

This government has taken the Mendelsohn report from June 2006 into consideration in the response to the Standing Committee on Aboriginal Affairs and Northern Development in the other place saying that because the high school completion rate on reserve is poor, they want to focus on high school completion rather than university education.

However, the Mendelsohn report looked only at the age group 20 to 24 and did not allow for delayed completion. It took a narrow window. On reserve, high school completion is poor; approximately 58 per cent have not completed their high school in Canada, and in Saskatchewan, 61 per cent have not completed their high school education.

We must put this into the context that these are on-reserve Aboriginals, which represents, in Canada as a whole, only 30-some-odd per cent of the total population, and in Saskatchewan it represents about half the population. It is a skewed statistic. One should not use that statistic alone to base any government policy on or any decision making.

In Saskatchewan, in 2001, as in Canada, Aboriginals lag behind non-Aboriginals in their educational level. The statistics in Saskatchewan are similar; 38 per cent of Aboriginals have not completed high school and 21 per cent of non-Aboriginals have not completed their high school.

For bachelor's-degree completion, 6 per cent of Aboriginals have a bachelor's degree and 14 per cent of non-Aboriginals have a bachelor's degree. It is about two-and-a-half times less for Aboriginals than it is for non-Aboriginals.

If all things were equal in Saskatchewan, in 2001, we would have had 4,971 Aboriginals aged 25 to 44, rather than 2,090 with a bachelor's degree; if all things were equal, 614 Aboriginals rather than 70 would have had a master's degree; and 145 rather than zero would have had an earned doctorate in 2001.

Those numbers of actual individuals would be required to close the gap between Aboriginal and non-Aboriginals in terms of higher education.

I will not read out the statistics for the gender differences, but it is important to note that there are interesting gender differences in educational accomplishments between men and women. In the Aboriginal population, whether we look at Canada or at Saskatchewan in particular, if we look at the bachelor's degrees granted; 8 per cent are granted to female Aboriginals and 4 per cent to male Aboriginals. In other words, female Aboriginals receive bachelor's degrees at twice the rate of male Aboriginals. If we look at any university, we see that in the student population and we see that in the classrooms. The women are earning the advanced degrees.

If we look at high school completion, it is the young men who are dropping out. This problem should be addressed because we cannot have that imbalance. Much as I am a feminist and I love to see women get ahead, we must have a balance. We must have the men coming up as well. We cannot have a society where only the women have the education.

If the sexes were equal in the Aboriginal population, 1,266 rather than 625 Aboriginal men aged 25 to 44 would have had a bachelor's degree in Saskatchewan in 2001. About 600 more men would have had a bachelor's degree.

Interestingly, when we look at the higher degrees of master's and doctorate, it is the men who have the doctorate degrees rather than the women; which is the same trend in the non-Aboriginal population. The women are earning the bachelor's degree but not the doctorate.

Probably many of you saw the article in *The Globe and Mail* about a week ago by Michael Valpy about Aboriginal post-secondary education. He used the title "Education is our Buffalo," which he obtained during a conversation with me. There will always be exceptions to the rule — such as me. I am almost 62 — I came through the system despite the obstacles and barriers. However, we need to put in place opportunity so not only the exceptional people get through. We want as many people to go through as possible. In the Aboriginal community, in particular, it is important to do that because there is a huge gap. To turn society around, we need a higher level of education. We

know, with greater education, particularly at the university level, we have higher income levels, and we get out of the cycle of poverty and then the social conditions also improve.

I was lucky that I went to a high school that was exceptionally good, and I want to record that my chemistry teacher, John Dyer, was a person who said to my brother and me, "You two are bright; you should go to university. You may be poor and not white but you need to go." Due to his influence, both my brother and I attended university.

What is one of the biggest barriers to university education? Finances. The Standing Committee on Aboriginal Affairs and Northern Development recommended the funding cap of 2 per cent in the Department of Indian and Northern Affairs be removed on post-secondary education. Apparently that will not happen because of the focus on high school completion; but the cost of an education is a huge impediment. If we look at the income levels in the Aboriginal population on reserve, the average income is \$15,000. It is dismal. Off-reserve, they estimate the average income to be \$21,000. The non-Aboriginal average income salary for a family is \$31,000. There is a huge disparity in economics. To get around that, Aboriginals need the education to overcome those economics.

Removal of that 2 per cent cap would make a big difference because the estimates are that several thousands of Aboriginal students are waiting to get into university education or other technical or post-secondary education institutions, but because they cannot obtain funding from their band, they cannot go on to further education. Because they come from families that do not have the money, they cannot go. Particularly if they live on reserve where they have few resources, funding creates a tremendous barrier.

The other barriers identified from various reports, the Canadian Millennium Scholarship Foundation is putting out reports virtually every month on post-secondary education for Aboriginals. They identify cost as the biggest barrier. They surveyed Aboriginal students and cost was their biggest barrier. Academic preparation was the second barrier, because one must have adequate preparation to succeed. Finally, the atmosphere at the institution was also important. That is, do Aboriginal people feel included? Those are the barriers.

• (2240)

There is another thing to note with respect to post-secondary education.

May I have a few more minutes, Your Honour?

**The Hon. the Speaker:** Is it agreed?

**Hon Senators:** Agreed.

**Senator Dyck:** If honourable senators look at Aboriginals in post-secondary institutions — in universities, in particular — about half of them are over 22 years age. It is usually an older population, usually female, and about one third have children. What they do not say in this report is that most of the people who are there who have children are single mothers. Despite that, we still see more women than men getting bachelor's degrees.



Honourable senators, these women are very determined. They are living under the worst possible circumstances, raising children on their own and coming from poor families, yet they know to get ahead they must get an education. Whatever plan is devised must also take into account the barriers of raising a family. We know that the universities have been set up essentially for a younger population, usually students who are single and students who do not have children. Accommodation needs to be made for that. The biggest thing to overcome is the financial barrier. To do that, removal of the cap on post-secondary programming through Indian and Northern Affairs Canada would make a huge impact.

To conclude, I would like to share something that came from the minutes of the Aboriginal Peoples Committee. We had a witness from Saskatchewan by the name of Mr. Slavik who made the case that education is also necessary in terms of First Nations being able to self-govern themselves. He said:

That is roughly 320 chiefs-in-council we work with. Less than 5 per cent of those have finished high school. Less than 2 per cent have university education. We are asking people who do not have the same educational or experiential skill set to manage increasingly complex administrative, jurisdictional and fiscal arrangements.

Education is also key for First Nations to be able to take over and manage their own self-government. If we go back to the famous Kelowna accord, in the area of post-secondary education, at the Kelowna summit, the following document, "First Ministers and National Aboriginal Leaders: Strengthening Relationships and Closing the Gap," which may also be known as the Kelowna accord, the Government of Canada committed to closing the gap by 50 per cent in 10 years, meaning an increase of 14,800 post-secondary graduates over the next five years and 37,000 more in the next 10 years. To reach that goal, the previous government committed a \$500 million investment over five years, including bursaries, scholarships and apprenticeships. The government committed to work with Aboriginal organizations in provinces and territories to determine how best to target the funding over a five- to 10-year period. That is the kind of gap we are looking at: Huge numbers that need to go to post-secondary education.

To conclude, access to education and getting an education is a treaty right. The treaties that our elders — and that would be people like my great-grandfather — signed were treaties with the British Crown thinking ahead seven generations, not just at the current time. Everything is planned for seven generations. I am only the third generation. We have a long way to go. We still have at least four. I have to apply these words to the next seven generations. Education is a treaty right and that treaty right has not yet been realized. We need to continue to remember that and to continue to make change to realize that that particular right.

I will conclude with a statement by Michael Valpy from *The Globe and Mail* who said that: "Education is our Buffalo. The Buffalo have disappeared." It was so important to the culture, the economic, social and spiritual well-being of people. Education has now taken over a good part of that. In French it states: L'éducation est notre puissance.

*(Senator then spoke her native language).*

**Hon. Senators:** Hear, hear!

On motion of Senator Hubley, debate adjourned.

[ Senator Dyck ]

## KYOTO PROTOCOL

### GOVERNMENT POSITION—INQUIRY— DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Mitchell calling the attention of the Senate to the stated intention of the Canadian government to weaken the Kyoto Protocol, and to dismantle 15 climate change programs, including the One-Tonne Challenge and the EnerGuide program.—(*Honourable Senator Banks*)

**Hon. Tommy Banks:** Honourable senators, I move the adjournment of the debate for the remainder of my time.

On motion of Senator Banks, debate adjourned.

## BUDGET 2007

### HEALTH AND SOCIAL TRANSFERS—INQUIRY— DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Moore calling the attention of the Senate to the matters of the Canada Social Transfer and the Canada Health Transfer contained in the Harper budget tabled on 19 March 2007.—(*Honourable Senator Fraser*)

**Hon. Catherine S. Callbeck:** Honourable senators, although this inquiry stands in the name of Senator Fraser, she has agreed that I speak tonight.

I want to rise to take part in the debate on the Conservative government's recent change to a per capita allocation of the cash portion of the Canada Social Transfer. I want to thank Senator Moore for beginning this debate and calling attention to this important issue which has largely been overlooked in the post-budget discussions. The Conservative government's Budget 2007 outlined the change in the way the cash portion of the Canada Social Transfer is distributed to the provinces. This new plan, which comes into effect in the 2007-08 fiscal year, will see \$289 per person transferred to each of the provinces.

This change to a per capita allocation of the cash portion of the social transfer may sound as if it is fair and equitable, but nothing could be further from the truth. When we analyze all aspects of the social transfer, namely the tax points, the cash allocation and the associated equalization, we see that a change represents a fundamental shift to a system that favours the wealthy provinces and widens the economic gap between Canada's regions.

Senator Moore's recent remarks clearly outlined the history of the federal government's involvement in the funding for health care, social programs and post-secondary education. That being the case, I will simply provide an overview of the makeup of Canada's social transfer.

As honourable senators know, the Canada social transfer was provided to the provinces in order to assist in the delivery of social programs and invest in post-secondary education. The social transfer is made up of three parts: Tax point transfer, associated equalization and a cash transfer.

First, on the subject of the tax point transfer, in 1977, when the health and social transfers were first established, the federal government ceded 13.5 per cent of all personal income tax, 1 per cent of corporate tax from each province, to fund health services, social programs and post-secondary education. These tax points have different values in different provinces because average income differs between regions of the country. For example, using the values from the current fiscal year, the Alberta tax point means \$321 per person in the province while the tax point in Prince Edward Island is worth only \$137 per Islander.

• (2250)

Because of these differences in tax point values, the federal government has always had a correcting formula for the cash transfer to help level the playing field. To some extent, the poorer provinces are compensated for this difference in tax point values by equalization payments. This is called “associated equalization” because it is equalization associated with the CST; but while it is part of the social transfer, it is paid out through the equalization program.

Despite this associated equalization, there are still significant differences between the tax point values in the wealthiest provinces, like Ontario and Alberta, and the poorest, like those in Atlantic Canada. For this reason, since 1977, the cash component of the CST was distributed in a particular way to compensate for the gaps. It provided for a top-province standard to equalize the tax transfers. In the end, the total social transfer — that is, the tax, the cash, the associated equalization — was equal per capita across the country.

For example, last year, under the old calculated system, the social transfer was broken down like this for every Islander: \$129 is the value of our tax points; \$282 is the cash transfer; \$89 is associated equalization. In Alberta, the social transfer broke down into \$313 in tax points and \$187 cash transfer. Hence, at the end of the day, each province received \$500 per person.

That was last year. This year, the Conservative government changed the way it calculates the cash portion of the CST. Instead of making sure that all provinces reach a top-province standard, the federal government will simply transfer \$289 per person to each province.

That means that my home province of Prince Edward Island will receive \$7 more for each Islander than it did last year under the new calculations. However, the wealthiest provinces will see much greater increases, such as \$40 per person in Ontario and \$102 more per person in Alberta.

This change has serious repercussions for smaller and less wealthy provinces like Prince Edward Island. Considerable regional disparities already exist in this country, and this new Conservative government’s per capita system for the cash portion of the social transfer will only add to those discrepancies.

While seeming to be fair and equitable, the numbers actually show this not to be true on a total per capita basis. For example, using 2007 and 2008 values, Prince Edward Island’s tax point

values would be \$137 per person, the associated equalization would be \$92 and the cash transfer would be \$289, for a total of \$518 per capita. In Alberta, on the other hand, the tax point values would be \$321 and the cash transfer would be \$289, giving the province \$610 per person.

In effect, Alberta would receive nearly \$100 more per person. That is about 18 per cent more than Prince Edward Island under the new system. Under the old system, since 1977, all provinces got the same amount per capita when you consider the cash portion, the equalization and the tax points.

This change to per capita calculation for federal transfers does not stop at the social transfer. The Conservative government has announced that the cash portion of the Canada Health Transfer will be transformed into a per capita transfer in 2014, when the current 10-year plan to strengthen health care is complete.

I cannot stress enough how detrimental these changes will be to the less wealthy provinces. I know only too well the difficulties facing Canada’s smallest province in delivering health and social services, as well as investing in post-secondary education. With our tax points valued lowest in the country, and with a relatively small population, it is apparent to me that this new per capita system — that is for the cash portion — will impact Prince Edward Island and, indeed, all four Atlantic provinces the hardest.

When these transfers were first established, the federal government ensured that all provinces ended up with the same amount per person. The calculations and the formulas, while complicated, were fair and equitable. This Conservative government has thrown out 30 years of balance and equity in favour of a system that benefits the two richest provinces in the country. In 2007-08 alone, Alberta will receive \$333 million extra while Ontario will receive about \$445 million more than under the old system. This change to a per capita cash transfer disproportionately benefits the richer provinces and, over the long term, will only increase the gap between the rich and poor areas in Canada.

The federal government should ensure that all provinces find themselves on an equal fiscal footing at the end of the day. Never should it increase the regional discrepancies in this country, as it is doing in this case. The federal government should rethink the changes it has made to Canada’s social and health transfers and revert to an equitable and fair formula of the distribution of our national wealth.

**Some Hon. Senators:** Hear, hear!

On motion of Senator Robichaud, debate adjourned.

## WORLD WAR I

### CONTRIBUTIONS OF ARAB PEOPLES TO ALLIED VICTORY—INQUIRY—DEBATE CONCLUDED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cools, calling the attention of the Senate to:

(a) Remembrance Day, November 11, 2006, the 88th Anniversary of the end of the First World War,



the Day to honour and to remember those noble and brave souls who fought, and those who fell, in the service of the cause of our freedom and in the cause of the British and Allied victory over Germany, Austria-Hungary, and the vast and powerful Ottoman Empire, known as the Ottoman Turks; and

- (b) the Arabian theatre of the First World War fought in the Arab regions of the Ottoman Empire, particularly Arabia and Syria, and to the brave and valiant Arab peoples, the children of Ishmael, who fought and fell on the side of Great Britain and the Allies in a war operation known to history as the Great Arab Revolt, June 1916 to October 1918, in which the Arab peoples from the Hijaz, the Najd, the Yemen, Mesopotamia and Syria, and their leaders, engaged and defeated the mighty Ottoman Turks, the rulers and sovereign power over the Arab peoples, expelling them from the Arab regions, which these Ottoman Turks had occupied and dominated for several centuries; and
- (c) the great Arab Leaders in the Arabian theatre of war, particularly the revered Hashemite, a direct descendant of the Prophet Mohammed, the Sharif Hussein bin Ali, the Emir of Mecca, the Holy City, and his four sons the Emirs, Ali, Abdullah, Feisal, and Zeid, who though high office holders under the Ottoman Turks, repudiated their allegiance to the Ottoman Sultan, and led their peoples in the Arab Revolt, both in support of and supported by Great Britain, whose high representatives had promised them independence for the Arabs; and
- (d) the endurance and valour of the Arab fighters, adept with their camels, to the desert and Bedouin warriors, from the desert tribes, the tribesmen and tribal chiefs such as Auda abu Tayi of the Howeitat tribe, and also to the Arab soldiers and officers of the Ottoman Turkish Army who joined the Arab Revolt to oust the Turks and to support the British, and to the harsh and inhospitable conditions of the deserts, the scorching heat of the days and the frigid cold of the nights, and to the Arab campaigns and victories including their capture of Akaba, Wejh, Dara and Damascus from the Ottoman Turks; and
- (e) other Arab leaders, including the Emir Abd-al-Aziz of Najd, known as the Ibn Saud, and the Idrisi Emir of Asir, who had offered resistance to Ottoman domination even before the war, and to General Edmund Allenby, the Commander-in-Chief of the British forces with headquarters in Cairo, Egypt, who noted the indispensable contribution of the Arab peoples to British and Allied victory; and
- (f) the Remembrance of the Arab peoples, the descendants of Ishmael, the son of Abraham and Hagar, the bond servant of Abraham's wife Sarah, and to the Remembrance of all the Arab peoples who sacrificed and suffered tremendously, often afflicted by hunger and thirst, yet who contributed to making Allied victory, our Canadian victory, our freedom from domination, possible. Lest we forget, we shall remember them.—(*Honourable Senator Comeau*)

**Hon. Anne C. Cools:** Honourable senators, last November 9, in honour of Remembrance Day here, I spoke about the First World War and its Arabian theatre in Syria, Arabia and Egypt. I spoke of the Great Arab Revolt, 1916-1918, led by the Hijaz Hashemite Emir of Mecca, Sharif Hussein bin Ali, and his four sons — the Emirs Ali, Abdullah, Feisal and Zeid — and its pivotal role in the 1918 Allied victory.

The Great Arab Revolt destabilized the Ottoman-German Alliance and acted as the right flank of the British armies under General Edmund Allenby, the Commander-in-Chief of the British forces, with headquarters in Cairo. The official start of the Arab Revolt was June 10, 1916, when Sharif Hussein fired a shot from his palace window —

**The Hon. the Speaker:** If the honourable senator is addressing the house, I should advise all other honourable senators that this is having the effect of closing the debate.

**Hon. Senators:** Agreed.

**Senator Cools:** The official start of the Arab Revolt was June 10, 1916, when Sharif Hussein fired a shot from his palace window, the signal to his forces in Mecca to attack the Ottoman garrisons and government offices, though, in fact, it had actually started a few days before, on June 5 in Medina, where Sharif Hussein sons Emir Feisal and Emir Ali began fighting with recruits and tribesmen.

Honourable senators, my goal is to remember and to honour the fallen and the Arab role in the Allies victory on Remembrance Day. For this, we must always remember that in this war, as in many, there was epic bravery by the combatants, regulars and irregulars, and civilians on both sides. This is the grand mystery of life, the human condition. My world view as a subject born in the British West Indies has been British and colonial. I bring my training in the British intellectual tradition of criticism and self-criticism, to my reading of the War and the 1919 Paris Peace Conference wherein the peacemakers set out to divide between themselves the vast Arab lands of the Ottoman Empire. This conference was dogged by imperial ambitions, conflicting colonial aspirations and mutual mistrust.

• (2300)

Honourable senators, about the defining role of the Great Arab Revolt in Allied victory, I shall cite George Antonius. He was an Arab, a Palestinian, a Christian, and a Cambridge-educated scholar, who was born in Cairo in 1891 and died in Jerusalem in 1941. His brilliant 1938 book, *The Arab Awakening*, provides much testimony about the Arab Revolt. George Antonius, quoting the French General Brémont, wrote in *The Arab Awakening*, at page 210:

Then there is the opinion of Général Brémont who headed the French military mission in the Hejaz. He writes that the Turco-German expedition to the Yaman was such as to

‘... expose the Allies to a great danger: had the enterprise succeeded, it might have blocked up the Red Sea and opened up the Indian Ocean to German operations.... Fortunately, the Hejaz Revolt frustrated the expedition; and by so doing, it undoubtedly rendered a very great service to the Allied cause.’

Antonius continued at page 210:

And lastly, the verdict of the late Dr. D.G. Hogarth, the eminent scholar, who had spent the years of the War in Cairo, on the staff of the Arab Bureau, and who, writing in *The Century* (July 1920), declared that:

Had the Revolt never done anything else than frustrate that combined march of Turks and Germans to Southern Arabia in 1916, we should owe it more than we have paid to this day.

Honourable senators, I shall record here the words of Britain's Prime Minister David Lloyd George and General Allenby, on the Great Arab Revolt. Ray Stannard Baker, the author of *Wilson and World Settlement, Volume III*, published in 1922, recorded the *Minutes of the Secret Conference of the Four Heads of State on March 19, 1919, relative to the partition of Turkey under the secret agreements of 1916 and 1917*. George Antonius quoted Ray Stannard Baker. This secret conference was about the Syrian Question and the British "muddle," which was Britain's conflicting agreements made during the war. These conflicting agreements were the 1917 Balfour Declaration, the 1916 Sykes-Picot Agreement with France, and the 1915 McMahon-Hussein letters, being the British Agreements for Arab Independence, made by diplomatic notes between Sir Henry McMahon and Sharif Hussein. Antonius, quoting Baker, wrote in *The Arab Awakening* at pages 310-11:

There is a passage in the minutes of the secret conference of the Big Four, held on the 20<sup>th</sup> of March 1919, in Paris which is of great importance for the light it throws on the contrast between the French and British attitudes:

... Mr. Lloyd George said that the agreement [i.e., between the Sharif Husain and Sir H. McMahon] might have been made by England alone, but it was England who had organized the whole of the Syrian campaign. There would have been no question of Syria but for England. Great Britain had put from 900,000 to 1,000,000 men into the field against Turkey, but Arab help had been essential; that was a point on which General Allenby could speak.

General Allenby said it had been invaluable.

Mr. Lloyd George, continuing, said that it was on the basis of the above-quoted letter [i.e., Sir H. McMahon's note of October 24, 1915] that King Husain had put all his resources into the field, which had helped us most materially to win the victory. France had for practical purposes accepted our undertaking to King Husain in signing the 1916 [Sykes-Picot] agreement. This had not been M. Pichon, but his predecessors. He was bound to say that if the British Government now agreed that Damascus, Homs, Hama and Aleppo should be included in the sphere of direct French influence, they would be breaking faith with the Arabs, and they could not face this. He was particularly anxious for M. Clemenceau to follow this. The agreement of 1916 had been signed subsequent to the letter to King Husain.

In her book *Paris 1919*, Canadian scholar Margaret MacMillan quoted Gertrude Bell worrying from the sidelines, at page 400:

... they are making such a horrible muddle of the Near East ... It's like a nightmare in which you foresee all the horrible things which are going to happen and can't stretch out your hand to prevent them.

She also quoted Arthur Balfour at page 405 that:

The unhappy truth ... is that France, England and America have got themselves into a position over the Syrian problem so inextricably confused that no really neat and satisfactory ... is now possible for any of them.

Honourable senators, it cannot be truthfully said that Britain made no effort to fulfill her pledges to the Arabs. Britain did, but only to a certain point. As the Paris Peace Conference unfolded, Prime Minister David Lloyd George did break faith with the Arabs. About the Syrian Question, Britain's Lloyd George consented to an act of spoliation which by his own words was a breach of faith with the Arabs. The British assented and looked on. The French did occupy Syria's Damascus, Homs, Hama and Aleppo and brought them into the "sphere of direct French influence."

In July 1920, the French under General Gouraud marched on Syria and ousted Sharif Hussein's son Emir Feisal, then King of Syria. This was the very Feisal, a revolt leader supported by the Arab fighters of the revolt, who had captured and entered Damascus and Syria triumphantly with General Allenby, the Feisal who had represented the Arabs at the Peace Conference in Paris, where he was coolly received. The Arabs call the year 1920 the *Am al-Nakba*, which means the Year of Catastrophe. Arab aspirations were dashed. By the end of 1920, Arabia was seething in rebellion with outbreaks in Syria, Palestine and Mesopotamia. The Peace Conference had already set in motion monumental problems that would continue for decades.

Honourable senators, the Ottoman defeat, and the Paris Peace Conference, had altered the borders, the politics, and the power relationships in the Arabian Rectangle and the Arabian Peninsula, particularly in the Hijaz and the Najd. The matters between the British and Sharif Hussein remained unsettled for too long. British negotiations continued off and on with Sharif Hussein for several years until 1924. During this time of rapid political changes, his influence had enormously declined in the region. Sadly, by 1925, he had become an object of ridicule by the British at Whitehall, whom he had so trusted. This was a most terrible tragedy. His final fall was partly the result of changed circumstances, conditions, and political realities in the region, and partly the result of his own inability to make peace with the Emir Abd-al-Aziz Ibn Saud of Najd, who had supported him in the Arab Revolt, and who had become the dominant Arab leader in the region. The Ibn Saud was a most powerful man, whose generalship and good government had become a byword in Arabia. Hoping to avert final disaster, Sharif Hussein abdicated to his son Emir Ali and departed. The Ibn Saud occupied Mecca on October 13. He especially chose not to break through Emir Ali's defences. For a long time he simply waited for Emir Ali's surrender. It came in December 1925. Abd-al-Aziz Ibn Saud was proclaimed King of the Hijaz on January 8, 1926.



Honourable senators, all judgments on Sharif Hussein or his mistakes must contemplate the fact that the British letdown, the British break of faith, had ravaged his mental and emotional composure. A broken Sharif Hussein lived in Cyprus. In 1930, then 75 years old and afflicted by a terrible stroke, he was permitted to go to Amman in Transjordan, severed from Syria, to be closer to his sons. He died there some months later. Sharif Hussein was a great man, as was his tragedy. Simultaneously, the Ibn Saud was brought into the foreground in Arabia. He dominated politics in the region and transformed it. The current King of Saudi Arabia is his son. I must add that Emir Faisal was brought out of exile in 1921 to become King of Iraq, formed out of the old Ottoman provinces at Baghdad and Basra. Mosul was added in 1925. His other son, Emir Abdullah, had become the King of Transjordan in 1921. I honour these Hashemite leaders, descendants of the Prophet Mohammed, the children of Ishmael, and those who fell, supporting them and the Allied cause. I honour those Arabs, those desert warriors, those tribesmen and tribal chiefs of the Arab Revolt, many of whom have no known graves.

• (2310)

Honourable senators, Margaret MacMillan, a great granddaughter of David Lloyd George, has rendered a great service by her book, *Paris 1919*. She writes of the Big Three, U.S. President Woodrow Wilson, British Prime Minister Lloyd George and French Premier Georges Clemenceau, as they redrew the world's borders, dividing the conquered lands between them. Her book reveals how many of today's difficult and intractable problems originate in the Paris settlements. It clearly shows the conflicting imperial aspirations of France and Britain and their consequences for the Near East and for Europe. In her Part 7, entitled *Setting the Middle East Alight*, she devoted five chapters to the Middle East—in reality, it is the Near East. The term “Middle East” is a relatively new term—about a preliminary to Paris conversation between Lloyd George and Clemenceau she raised a spiritual question. She wrote at page 382:

Were the French wrong or the British being perfidious (again)? Unfortunately there was no official record of the conversation. It was an ill-omened start for an issue that was to poison French-British relations during the Peace Conference and for many years after. What came to be called the Syrian Question (although it really related to all the Ottoman Arab territories) need not have done so much damage.

Continuing, she described David Lloyd George, at page 382:

Lloyd George, a Liberal turned land-grabber, made it worse. Like Napoleon, he was intoxicated by the possibilities of the Middle East . . .

The festering Syrian Question had destroyed many, including Sharif Hussein, who would not accept the partition of Syria, Palestine's severance from Syria and the Arabs, and the plight of Palestine and its Arabs under the British Mandate. The Syrian Question broke Sharif Hussein's heart and psyche. Time would show that the Syrian Question, along with his other catastrophic and disastrous Near Eastern policies, were to break Prime Minister David Lloyd George. Margaret MacMillan told us at page 373 that:

. . . Lloyd George had inherited his hostility to the Turks from the great Gladstone.

[ Senator Cools ]

Honourable senators, I move now to the Turkish-speaking parts of the defeated Ottoman Empire, mainly Anatolia and Constantinople, and Prime Minister Lloyd George's catastrophic decision to partition them, and to Mustafa Kemal, known as Ataturk, the Great Turk, one of the most remarkable men of the 20th century. As an Ottoman army officer, later general, he had distinguished himself at Gallipoli. Interestingly, he had strongly urged the Ottomans, particularly the powerful War Minister Enver Pasha, not to enter the War.

**The Hon. the Speaker:** I regret to advise the honourable senator that her 15 minutes has expired.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Five minutes.

**Senator Cools:** Mustafa Kemal led the Turkish people to oppose Lloyd George's disastrous policies to partition and to have the Allied forces occupy certain Turkish-speaking areas. That is a history that should be read, the bloodshed and carnage. At some point in time I want to talk about Canada's Prime Minister Mackenzie King's role, but that is for another day.

Mustafa Kemal mobilized the Turkish people, and the Turkish military to resist the partition. He negated the ill-fated 1920 Treaty of Sèvres between the Allies and the Ottomans, and compelled the Allies to abandon it and to negotiate a new peace treaty with a new Turkey of which he was to become President. Lord Curzon negotiated the 1923 Treaty of Lausanne with a new, independent Turkey. This was the very same Lord Curzon who in 1922 helped to force Lloyd George's resignation as Prime Minister and to end his political career. Lausanne was unique among the peace treaties because it was negotiated. Margaret MacMillan, quoting Lord Curzon, in *Paris 1919* wrote at page 453:

“Hitherto we have dictated our peace treaties,” Curzon reflected. . . .

That was a novel thing, I suppose, for him to do.

Honourable senators, war, one of the Four Horsemen of the Apocalypse, is a scourge. It is a grim rider. Such is the mystery of life and the human condition. I honour all the fallen, on all sides.

I thank honourable senators and I hope that this year on Remembrance Day, when we remember all of the fallen, we will remember those desert tribesmen and those desert warriors who fought on the side of the British in World War I.

[Translation]

## UNITED KINGDOM SLAVE TRADE ACT

### INQUIRY—ORDER STANDS

On Inquiry No. 29 by Senator Cools:

That she will call the attention of the Senate to:

- (a) March 25th, 2007, being the two hundredth anniversary of the abolition of the slave trade in the British Empire by An Act for the Abolition of the Slave Trade, an act of the U.K. Parliament, assented to by King George III on March 25, 1807; and

- (b) to slavery and the slave trade in African peoples by Europeans from the 1500s to the 1800s, and to the law of estate in human life, to property and ownership in human beings, and to the trade and commerce in human beings as commodities, slaves, bought and sold in the marketplace; and
- (c) to the transportation across the Atlantic Ocean of about 12 million Africans, packed as cargo in slaving ships, in that terrible journey named the Middle Passage, from Africa to the shores of the Americas and the West Indies, for the deployment of these slaves on the plantations of the New World, generating previously unknown wealth and prosperity; and
- (d) to William Wilberforce and to his unceasing labours as a Member of Parliament in the British House of Commons from 1780 to 1825, and to his leadership of the campaign in the Houses of Parliament for the abolition of the slave trade and slavery, and to his belief as a devout Christian and evangelical Anglican that his life's labours for the amelioration of the lives of the African slaves was his pilgrimage, his own journey; and
- (e) to Thomas Clarkson, the father of abolition, who inspired Wilberforce, and to John Wesley, the founder of the Methodist Church, and to all those other Christians — Anglicans, Quakers and Methodists, and to the black African abolitionists, who led and sustained a national and international movement carrying public opinion for the abolition of the slave trade and slavery, and to their testament to the human spirit to overcome man's inhumanity to man; and
- (f) to William Wilberforce's influence on my life personally as a child in Barbados, in the British West Indies in the British Empire, that island where the concept called the plantation was created, as also was its ancient House of Assembly, the second oldest legislature outside of the U.K., and all this when sugar was king; and
- (g) to the indebtedness and the gratitude of the whole world, particularly the black world, to these abolitionists who by dint of their personal courage, fortitude and perseverance were able to end a terrible centuries-old villainy and change the course of human history.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I move adjournment of this inquiry in my own name.

Order stands.

## ABOLITION OF SLAVERY IN BRITISH EMPIRE

### INQUIRY—ORDER STANDS

On Inquiry No. 30 by Senator Cools:

That she will call the attention of the Senate to:

- (a) March 25th, 2007, the two hundredth anniversary of the abolition of the slave trade in the British Empire, and in the British North American Provinces, particularly the two Canadas; and

- (b) to John Graves Simcoe, the first Lieutenant-Governor of Upper Canada, who had served briefly as a member in the British House of Commons with William Wilberforce, and who by 1790, even before arriving in Upper Canada, had expressed his opposition to slavery; and

- (c) to Lieutenant-Governor John Graves Simcoe's efforts, and his Bill in 1793 for the gradual abolition of slavery in Upper Canada by barring the further introduction of slaves, a Bill which represented the first legislative initiative against slavery in the British Empire; and

- (d) to John White, the Attorney-General of Upper Canada under Lieutenant-Governor Simcoe, who had practiced law in Jamaica, the British West Indies, and who having known slavery and the law of slavery, introduced this Bill in the House of Assembly; and

- (e) to the abolitionist movement in Upper Canada.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I move that debate be adjourned in my name.

Order stands.

[English]

## TEMPORARY FOREIGN WORKER PROGRAM

### INQUIRY—DEBATE ADJOURNED

**Hon. Grant Mitchell** rose pursuant to notice of May 2, 2007:

That he will call the attention of the Senate to the need to review the Temporary Foreign Workers program in order to ensure that it alleviates the difficulties businesses have in circumstances of legitimate labour shortage, without exploiting foreign workers or undermining Canadian labour.

He said: I would like to begin by thanking my colleagues this evening in the Senate. I know it is late. I have waited a long time to have a chance to speak to this item. I thank honourable senators for their patience this evening. This is an important topic.

There is a strong need to review the temporary foreign workers program in order to ensure that it alleviates the difficulties that businesses have in circumstances of legitimate labour shortage without exploiting foreign workers or undermining Canadian labour.

[Translation]

The purpose of the temporary foreign workers program is to address the short-term labour shortages currently facing Canadian businesses and industries, and to offer them the opportunity to recruit qualified workers from outside Canada when not enough workers can be found within our borders.

[English]

There are numerous problems with the program. The application process is cumbersome for small businesses. Employees are sent back to their home countries just as they



are integrating into their communities and workplaces. These workers are vulnerable to exploitation by unscrupulous employers. Rules to ensure that the foreign workers meet the same standards regarding wage rates and technical qualifications as Canadian workers are not transparent and hard to enforce, and there are few accountability mechanisms to ensure compliance once the workers have arrived in Canada.

[Translation]

There are over 150,000 temporary foreign workers living in Canada, and that number is on the rise. In fact, in the first quarter of 2006, the number of temporary foreign workers increased by 14 per cent compared to the same period in 2005. In my home province of Alberta, that figure rose by 41 per cent for the same period.

• (2320)

[English]

Under any circumstances, this kind of increase without a similar enhancement of oversight and accountability mechanisms will have consequences.

Recently, someone contacted my office with a story that I fear is becoming increasingly common. The individual came to Canada along with 13 other candidates to work as pipefitters and welders for an Alberta company. Under the Human Resources and Skills Development Canada Labour Market Opinion, the company was required to provide medical insurance, travel to and from Canada, and accommodation.

Instead, the company indicated that it would pay for the airfare to Canada and deduct the cost back through weekly payroll deductions, and the workers would be responsible for the cost of their own accommodation, board and transportation to and from the work site.

On payroll slips, there are deductions for administration fees, permit fees, an \$800 advance recovery fee and a \$360 travel fee. On one paycheque, the gross earnings were \$1,314 and the net pay was \$243.41. How can that be right?

To make matters worse, within less than three months of their arrival in Canada the company terminated all the temporary foreign workers. The company says that it is for cause. They notified the employees that they would be transported back to the airport for return to their home country at their own expense.

[Translation]

At the same time, I have worked with reputable business owners who want to expand and contribute to our economic prosperity but are unable to because they cannot find skilled workers. They are therefore waiting indefinitely for applications by temporary foreign workers to be approved.

[English]

I have spoken to the owner of a northern Alberta trucking company, who told me that his Labour Market Opinion was approved two years ago but he cannot bring the workers in because immigration will not issue a work permit to the potential foreign workers, citing the fact that they are not qualified because they do not have an Alberta driver's licence. How do they get one if they cannot come here?

[ Senator Mitchell ]

I have spoken to a small restaurant owner who has brought qualified chefs from his home country, only to have them sent home after a year and have his business suffer as a result as he struggles to find and train new chefs in a difficult market.

We have all heard the stories about the fast food restaurant that closes the drive-through in the middle of the day because there are not any staff, and the coffee shop that offers a \$3,000 signing bonus. Businesses are shutting their doors and not expanding because they cannot find workers.

[Translation]

Clearly, there is a problem here. First, should this problem be solved by means of a temporary foreign worker program, or is this just a stopgap measure? Canada's future international competitiveness and productivity depend on our efforts to build our human capital.

We need to act more intelligently, focus on research and development and build an educated, skilled labour force. Insofar as temporary workers invited into Canada can pass on their know-how to Canadian workers or temporarily remedy a labour shortage in areas where the demand for workers outstrips the supply, the Temporary Foreign Worker Program is ideal.

And in some areas, the Seasonal Agricultural Workers Program has worked extremely well for a very long time. But the type of jobs that bring foreign workers to Canada is changing. In 1996, 62 per cent of temporary foreign workers came to Canada to fill jobs requiring university, college or practical training. In 2005, that figure had dropped to 50 per cent.

[English]

Is it in the interest of Canadian long-term productivity and of our social fabric to use the temporary foreign workers program as a substitute for a better thought out, long-term immigration and labour force plan? The labour shortage in Alberta and other parts of the country is not likely to abate in the near future, yet there is severe underemployment of Aboriginal young people on the Prairies. We are consistently recruiting skilled new Canadians as permanent immigrants who cannot find jobs in their fields. In the future, more and more jobs will require a university education, yet our post-secondary school enrolment figures are not keeping up with our international competitors. The Conservative government has cut programs for literacy and daycare, both of which result in lower labour force participation rates.

[Translation]

This program should not serve as a substitute for a long-term solution to stimulate productivity in Canada and to enhance human potential in the future. We must never allow the creation of a sub-class of workers who are not citizens and who are exploited in Canada. We must never allow a temporary program to become a permanent solution.

[English]

What is the solution? Recent efforts to find solutions to the problems identified with the temporary foreign workers program have focused largely on the cumbersome nature of the program for businesses. For example, a memorandum of understanding

with the Province of Alberta exempts the oil sands from the need for a Labour Market Opinion as long as one company has determined that there is a need for workers in the industry.

Similar agreements have been reached with other provinces — for instance, the Toronto construction industry, which has faced serious problems with illegal migrant workers in the past. Recently, the government allowed businesses to extend the terms of certain categories of workers to two years instead of one.

While these changes are welcome for legitimate businesses, the difficulty is that there are few accountability mechanisms being put in place to ensure that there is compliance. For example, with the lifting of the requirement of a Labour Market Opinion in certain circumstances, after a single company has been approved, there is a danger of a lowest common denominator effect. A recent survey of half the building trades unions in Alberta indicates — and this is surprising but true — that there are currently at least 8,900 unemployed domestic skilled journeyman building trades workers in Alberta, despite the intensity of the economy.

Combined with evidence that some companies are not complying with the requirements of their agreements, and the possibility that the calculation of prevailing wage rates is being done in a way that could be less than the predominant wage rates of the major unions in the industry, it is possible that unscrupulous companies could bring in temporary foreign workers, and maybe are doing so to avoid paying the higher market-driven salaries.

A potential remedy to this situation would be to have more transparency in the way in which the prevailing wage rate is determined and to require that the predominant union in that industry sign off on that rate, as opposed to a single union in a single company. This is also an example of the need for more accountability by the companies that employ foreign workers.

[Translation]

Furthermore, certain inequalities are due to the very nature of the system. For example, individuals who come to Canada under the live-in caregiver immigration program can apply for permanent residency at the end of their contract whereas temporary workers cannot. Why the difference between these two categories of workers?

[English]

Similarly, a 2005 case was before the Ontario Superior Court of Justice, which has since been withdrawn, regarding mandatory payroll deductions for employment insurance. Is it fair that temporary foreign workers should be required to pay into employment insurance when there is no possibility they could ever benefit from the program?

[Translation]

I think that the most pressing change we need to see is better accountability measures, especially following the approval of temporary work permits and the arrival of the workers in Canada.

Once Human Resources Canada approval has been obtained, and once immigration services have let foreign workers in and given them their permits, the Department of Human Resources does very little follow-up. Applying labour standards is left up to provincial authorities. The standards vary from place to place, and in some cases, the criteria that apply to foreign workers differ from those that apply to Canadian workers.

• (2330)

Despite its ruling that condemned discrimination against non-citizens, the Supreme Court also found that a person's job is not protected under anti-discrimination laws. As such, laws that authorize poorer working conditions for foreign workers than for their Canadian counterparts are unlikely to be found unconstitutional in Canada, even with respect to access to benefits. For example, Alberta's Employment Standards Code does not guarantee that most of the minimum working conditions or the Occupational Health and Safety Act provisions will apply to foreign agricultural workers. Temporary foreign workers are often ineligible for workplace accident benefits, and the guaranteed return to work applies only to those who had been in the job for 12 months at the time of the accident. To be eligible for Canada or Quebec Pension Plan benefits, a foreign worker must have held a job in Canada for at least four of the previous six years. Once again, a foreign worker injured on the job is not eligible for benefits.

[English]

In almost all provinces, mechanisms for ensuring compliance with the terms and conditions of the temporary foreign works program tend to be complaints-based rather than random audits. Due to the nature of the employer-employee relationship, it is unlikely that a temporary foreign worker will lodge a complaint. First, the worker's status in Canada is dependent upon maintaining their employment with that employer. Lack of language skills, fear of being returned to the country of origin and uncertain status in Canada tend to prevent workers from speaking out. As a result, the program can be used by some unscrupulous employers to obtain cheap foreign labour and avoid paying fair wages and benefits for skilled Canadian labour. The story I began my speech with illustrates how difficult it is for workers to come forward. This demonstrates the need for a pro-active audit process.

There needs to be a process of audits of companies that employ temporary foreign workers, perhaps random audits, to ensure compliance with the terms and conditions of the HRSDC Labour Market Opinions and also with provincial employment standards. We need to implement some form of whistle-blower protection, not just for the foreign workers but also for the colleagues and the companies in which they work so that there is no fear of reprisal for those who come forward to report abuse. Finally, there must be penalties for companies that fail to comply, including both financial penalties and a ban on the use of more temporary foreign workers for a specified period of time.

Only with this kind of accountability mechanism in place can we ensure the protection of the rights of the workers who come to Canada with full expectation that their contracts will be honoured and protection of the honest businesses that rely on temporary foreign workers.



[Translation]

Furthermore, we have to study the long-term effects of the current trends on labour needs in Canada, in order to valorize Canada's human potential in the future. The temporary foreign workers program should complement, not replace, Canada's immigration and skills development programs. This type of program has to be firmly anchored in the Canadian values of economic prosperity and social justice.

On motion of Senator Oliver, debate adjourned.

[English]

### **BANKING, TRADE AND COMMERCE**

#### **COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES DEALING WITH INTERPROVINCIAL BARRIERS TO TRADE ADOPTED**

**Hon. Jeremiah S. Grafstein**, pursuant to notice of April 26, 2007, moved:

That, notwithstanding the Order of the Senate adopted on Tuesday, October 24 2006, the Standing Senate Committee on Banking, Trade and Commerce, which was authorized to examine and report on issues dealing with interprovincial barriers to trade, be empowered to extend the date of presenting its final report from June 29, 2007 to December 31, 2007; and

That the Committee retain until February 15, 2008 all powers necessary to publicize its findings.

Motion agreed to.

### **LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF BENEFITS AND RESULTS ACHIEVED THROUGH COURT CHALLENGES PROGRAM**

**Hon. Donald H. Oliver**, pursuant to notice of June 5, 2007, moved:

That, notwithstanding the Order of the Senate adopted on Thursday, December 7, 2006, the Standing Senate Committee on Legal and Constitutional Affairs, which was authorized to examine and report on the benefits and results that have been achieved through the Court

Challenges Program, be empowered to extend the date of presenting its final report from June 30, 2007 to December 31, 2007.

Motion agreed to.

#### **COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF INCLUDING IN LEGISLATION NON-DEROGATION CLAUSES RELATING TO ABORIGINAL TREATY RIGHTS**

**Hon. Donald H. Oliver**, pursuant to notice of June 5, 2007, moved:

That, notwithstanding the Order of the Senate adopted on Thursday, June 1st, 2006, the Standing Senate Committee on Legal and Constitutional Affairs, which was authorized to examine and report on the implications of including, in legislation, non-derogation clauses relating to existing Aboriginal and treaty rights of the Aboriginal peoples of Canada under s.35 of the *Constitution Act, 1982*; be empowered to extend the date of presenting its final report from June 30, 2007 to December 31, 2007.

Motion agreed to.

### **STUDY ON INTERNATIONAL OBLIGATIONS REGARDING CHILDREN'S RIGHTS AND FREEDOMS**

#### **MOTION TO REQUEST GOVERNMENT RESPONSE ON REPORT OF HUMAN RIGHTS COMMITTEE ADOPTED**

**Hon. A. Raynell Andreychuk**, pursuant to notice of June 7, 2007, moved:

That the Senate request a complete and detailed response from the Government to the tenth report of the Standing Senate Committee on Human Rights, entitled: *Children: The Silenced Citizens*, with the Minister of Justice, the Minister of Labour, the Minister of Human Resources and Social Development, the Minister of Foreign Affairs, the Minister of Public Safety, the Minister of Citizenship and Immigration, the Minister of National Defense, the Minister of Canadian Heritage and Status of Women, the Minister of Indian Affairs and Northern Development and the Minister of Health being identified as the Ministers responsible for responding to the report.

Motion agreed to.

The Senate adjourned until Tuesday, June 19, 2007, at 2 p.m.

## CONTENTS

Monday, June 18, 2007

	PAGE		PAGE
<b>ROUTINE PROCEEDINGS</b>		<b>Criminal Code (Bill C-59)</b>	
<b>Aboriginal Healing Foundation</b>		Bill to Amend—Second Reading.	
2006 Annual Report Tabled.		Hon. Janis G. Johnson . . . . .	2725
Hon. Gerald J. Comeau . . . . .	2709	Hon. Dennis Dawson . . . . .	2726
		Referred to Committee . . . . .	2727
<b>Quarantine Act (Bill C-42)</b>		<b>Nunavik Inuit Land Claims Agreement Bill (Bill C-51)</b>	
Bill to Amend—First Reading.		Second Reading—Debate Adjourned.	
Hon. Gerald J. Comeau . . . . .	2709	Hon. Hugh Segal . . . . .	2727
		Hon. Tommy Banks . . . . .	2730
<b>Income Tax Amendments Act, 2006 (Bill C-33)</b>		<b>Canada Elections Act</b>	
First Reading. . . . .	2709	<b>Public Service Employment Act (Bill C-31)</b>	
		Message from Commons—Disagreement with Senate Amendment.	
<b>Business of the Senate</b>		The Hon. the Speaker . . . . .	2731
Committees Authorized to Meet During Sitting of the Senate.		<b>The Criminal Code (Bill C-23)</b>	
Hon. A. Raynell Andreychuk . . . . .	2709	Bill to Amend—Second Reading—Debate Adjourned.	
Hon. Eymard G. Corbin . . . . .	2709	Hon. Pierre Claude Nolin . . . . .	2731
Hon. Gerald J. Comeau . . . . .	2709		
Hon. Anne C. Cools . . . . .	2709	<b>Olympic and Paralympic Marks Bill (Bill C-47)</b>	
		Second Reading—Debate Adjourned.	
		Hon. Marjory LeBreton . . . . .	2733
		Hon. Tommy Banks . . . . .	2736
		Hon. Joyce Fairbairn . . . . .	2736
<b>ORDERS OF THE DAY</b>		<b>Quarantine Act (Bill C-42)</b>	
<b>Bill to Amend Certain Acts in Relation to DNA Identification (Bill C-18)</b>		Bill to Amend—Second Reading.	
Third Reading—Debate Adjourned.		Hon. Wilbert J. Keon . . . . .	2737
Hon. Pierre Claude Nolin . . . . .	2710	Hon. Lucie Pépin . . . . .	2738
Hon. Serge Joyal . . . . .	2711	Referred to Committee . . . . .	2738
Hon. George Baker . . . . .	2712	<b>Kyoto Protocol Implementation Bill (Bill C-288)</b>	
<b>Business of the Senate</b>		Third Reading—Motions in Amendment and Subamendment—	
Hon. Gerald J. Comeau . . . . .	2712	Debate Continued—Vote Deferred.	
		Hon. Consiglio Di Nino . . . . .	2739
<b>The Estimates, 2007-08</b>		Motion in Subamendment.	
Second Interim Report of National Finance Committee—		Hon. Consiglio Di Nino . . . . .	2741
Debate Suspended.		Hon. Jeremiah S. Grafstein . . . . .	2741
Hon. Joseph A. Day . . . . .	2712	Hon. Terry Stratton . . . . .	2741
<b>Business of the Senate</b>		<b>National Capital Act (Bill S-210)</b>	
The Hon. the Speaker . . . . .	2714	Bill to Amend—Report of Committee—Debate Adjourned.	
<b>Kyoto Protocol Implementation Bill (Bill C-288)</b>		Hon. Tommy Banks . . . . .	2742
Third Reading—Motions in Amendment and Subamendment—		Hon. Pierre Claude Nolin . . . . .	2742
Debate Continued. . . . .	2714	<b>Rules, Procedures and the Rights of Parliament</b>	
<b>The Estimates, 2007-08</b>		Sixth Report of Committee—Debate Adjourned.	
Second Interim Report of National Finance Committee Adopted.		Hon. Wilbert J. Keon . . . . .	2743
Hon. Joseph A. Day . . . . .	2715	Hon. Anne C. Cools . . . . .	2743
<b>Appropriation Bill No. 2, 2007-08 (Bill C-60)</b>		<b>Study on National Security Policy</b>	
Second Reading.		Interim Report of National Security and Defence Committee—	
Hon. Joseph A. Day . . . . .	2716	Debate Continued.	
		Hon. David Tkachuk . . . . .	2743
<b>Budget Implementation Bill, 2007 (Bill C-52)</b>		<b>Study on National Security Policy</b>	
Second Reading.		Interim Report of National Security and Defence Committee—	
Hon. Bill Rompkey . . . . .	2717	Debate Continued.	
Hon. Gerald J. Comeau . . . . .	2723	Hon. David Tkachuk . . . . .	2743
Referred to Committee . . . . .	2723	<b>Post-secondary Education</b>	
<b>Geneva Conventions Act</b>		Inquiry—Debate Continued.	
<b>Act to Incorporate the Canadian Red Cross Society</b>		Hon. Lillian Eva Dyck . . . . .	2743
<b>Trademarks Act (Bill C-61)</b>		<b>Kyoto Protocol</b>	
Bill to Amend—Second Reading.		Government Position—Inquiry—Debate Continued.	
Hon. Janis G. Johnson . . . . .	2723	Hon. Tommy Banks . . . . .	2746
Hon. Eymard G. Corbin . . . . .	2724		
Referred to Committee . . . . .	2725		



	PAGE
<b>Budget 2007</b>	
Health and Social Transfers—Inquiry—Debate Continued.	
Hon. Catherine S. Callbeck . . . . .	2746
<b>World War I</b>	
Contributions of Arab Peoples to Allied Victory—Inquiry—	
Debate Concluded.	
Hon. Anne C. Cools . . . . .	2748
Hon. Gerald J. Comeau . . . . .	2750
<b>United Kingdom Slave Trade Act</b>	
Inquiry—Order Stands.	
Hon. Gerald J. Comeau . . . . .	2751
<b>Abolition of Slavery in British Empire</b>	
Inquiry—Order Stands.	
Hon. Gerald J. Comeau . . . . .	2751
<b>Temporary Foreign Worker Program</b>	
Inquiry—Debate Adjourned.	
Hon. Grant Mitchell. . . . .	2751

	PAGE
<b>Banking, Trade and Commerce</b>	
Committee Authorized to Extend Date of Final Report on Study	
of Issues Dealing with Interprovincial Barriers to Trade Adopted.	
Hon. Jeremiah S. Grafstein . . . . .	2754
<b>Legal and Constitutional Affairs</b>	
Committee Authorized to Extend Date of Final Report on	
Study of Benefits and Results Achieved through Court	
Challenges Program.	
Hon. Donald H. Oliver. . . . .	2754
Committee Authorized to Extend Date of Final Report	
on Study of Including in Legislation Non-derogation Clauses	
Relating to Aboriginal Treaty Rights.	
Hon. Donald H. Oliver. . . . .	2754
<b>Study on International Obligations Regarding Children's Rights</b>	
<b>and Freedoms</b>	
Motion to Request Government Response on Report of Human	
Rights Committee Adopted.	
Hon. A. Raynell Andreychuk . . . . .	2754







*If undelivered, return COVER ONLY to:*  
Public Works and Government Services Canada  
Publishing and Depository Services  
Ottawa, Ontario K1A 0S5





CANADA

# Debates of the Senate

---

1st SESSION

•

39th PARLIAMENT

•

VOLUME 143

•

NUMBER 110

---

OFFICIAL REPORT  
(HANSARD)

Tuesday, June 19, 2007



THE HONOURABLE NOËL A. KINSELLA  
SPEAKER





## CONTENTS

(Daily index of proceedings appears at back of this issue).

---

*Debates and Publications:* Chambers Building, Room 943, Tel. 996-0193

Published by the Senate  
Available from PWGSC – Publishing and Depository Services, Ottawa, Ontario K1A 0S5.  
Also available on the Internet: <http://www.parl.gc.ca>

## THE SENATE

Tuesday, June 19, 2007

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

### SENATORS' STATEMENTS

#### THE HONOURABLE LARRY W. CAMPBELL

QUOTATION OF THE HONOURABLE  
A. RAYNELL ANDREYCHUK IN *THE HILL TIMES*—  
REQUEST FOR APOLOGY

**Hon. A. Raynell Andreychuk:** Honourable senators, I rise today to point out what I believe is a regrettable action taken by one of our colleagues. While sitting in the chamber last night I happened to be reading the Senate communications which referred to an article in *The Hill Times* written by "Liberal Sen. Larry Campbell" with the title, "A constitutional crisis from within." The opening remark was a quote attributed to me which stated:

We cannot engage in a consultation process between premiers. To me that's outrageous.

There was no further comment or elaboration upon my role in the Standing Senate Committee on Legal and Constitutional Affairs, except for this reference.

This statement was clearly misleading. My comment was obviously intended to state that the process in which we were engaged was outrageous, meaning that we were not going to go to clause-by-clause consideration of Bill S-4 as agreed, but we were delaying, yet again, government business.

Honourable senators have been known to be fair and cautious when quoting colleagues. If Senator Campbell, despite not alerting me that he was doing so, wished to quote me in an article, I would have hoped that he would have been fair in his quote. Rather than quoting the entirety of the thought which I expressed, which was that I found the proceedings of May 9, 2007, in the Standing Senate Committee on Legal and Constitutional Affairs to be highly unusual, he chose to quote one sentence leading to my conclusion and not the prior five and a half paragraphs, which the record shows, nor the following five paragraphs.

The meeting had been set for clause-by-clause consideration of Bill S-4. We were advised that, rather than proceeding, members opposite wished to circulate a letter from one premier to other premiers. As was rightly noted, the premiers had been canvassed and they were given a time limit to respond. The premier's letter came later and we were asked to circulate it to other premiers for their opinions. My objection was to the further delay of government business since we had already canvassed the premiers.

Anyone reading the full statement, which I will not put on the record here, would understand that I was questioning the delay tactic as I perceived it, and the methodology of approaching premiers in this fashion. To simply put on the record that consulting with premiers, in my opinion, was outrageous is

fallacious and not worthy of the usual good standards that we set in this chamber. Senator Campbell knows, or should know, that when I referred to "outrageous," it was not to the premiers and the consultation, but rather to the delaying tactics.

• (1405)

While I respect each and every senator's opinion and their ability to put their points across, I expect the same courtesy in turn. I hope that Senator Campbell will reconsider and apologize for what I believe is an inappropriate and inaccurate reflection of the comments I made.

#### LIBRARY AND ARCHIVES CANADA

##### CENSUS RECORDS AND GENEALOGICAL INFORMATION

**Hon. Lorna Milne:** Honourable senators, Library and Archives Canada provides access to many genealogical resources via its website. The resources are freely accessible to Canadians wherever they live and at their convenience. These resources from the Library and Archives Canada historic collection have been digitized and made searchable on the Internet.

These resources also include the 1851, 1901, 1906 and 1911 Canadian census records — images of actual census records, plus images of selected passenger lists of people emigrating to Canada over the period 1865 to 1922. Use of these web resources is significant. For instance, images from the 1911 census alone are downloaded over 6 million times per year, while the website of Library and Archives Canada receives 12 million visits per year, 20 per cent of which are for genealogy.

I know Senator Comeau will be interested to learn that access to the 1911 census images has produced no complaints whatsoever to the Privacy Commissioner. In fact, there have never been any complaints about access to the historic census records from either the users of the resource or from anyone whose privacy might have been violated.

In addition to digital resources, Library and Archives Canada has many other records in its collection that are of interest to genealogists, whether it be microfilm copies of other census records, their extensive newspaper collection, additional immigration and military records, photos, artwork and moving images that represent Canadian people, places and events. All these resources combine to provide a wealth of material for researchers. This wealth translates into more than 20,000 in-person visits and inquiries per year.

As part of its continuing efforts to improve accessibility to genealogical information, Library and Archives Canada announced on June 1 a new public-private partnership with Ancestry.ca, a major provider of on-line genealogical resources.

Initially, Ancestry.ca and Library and Archives Canada will focus on indexing the Quebec City passenger lists from 1870 to 1900, comprising more than 750,000 names. The digital images of these and other passenger lists are already on the Library and



Archives Canada website. The index for Quebec City will be available free of charge on their website, as well as on Ancestry.ca.

Library and Archives Canada and Ancestry.ca will continue to work together to ensure that eventually all Canadian passenger lists from 1865 to 1935, which includes the ports of Halifax, Saint John, Vancouver, Victoria and North Sydney, are digitized and indexed.

• (1410)

## THE ENVIRONMENT

### KYOTO PROTOCOL—EFFORTS OF CANADIAN MANUFACTURERS REGARDING GREENHOUSE GAS EMISSIONS

**Hon. Mira Spivak:** Honourable senators, it is unfair to penalize industries in Canada that have already more than met their share of Canada's commitment under, dare I say it, the Kyoto Protocol. Greenhouse gas emissions from Canadian manufacturing on the whole are some 7.4 per cent below their 1990 levels. The forestry industry is down 44 per cent, while some of its members have achieved a 70- per-cent reduction. The construction industry emits 30 per cent less than it did 17 years ago, while mining, which includes the Alberta oil sands development, has increased its emissions by 104 per cent.

In moving the goalposts from 1990 to 2006 as the base year for determining mandatory reduction, the government not only refuses to comply with Canada's international obligations as they were, it also sends entirely the wrong message to our industrial sector. That message, in essence, is: Early action will only make it more difficult to comply with new laws. The salve that the Government of Canada is offering — credit for up to 15 million tonnes of early reductions — is no salve at all. One B.C. paper company alone requires 1 million tonnes of credit.

I hope that the Government of Canada will increase the amount it will grant industries that have not simply sat out a decade and a half of government inaction. To the credit of these industries, they have taken steps that reduce their costs and benefit all of us. No matter which greenhouse gas emission plan finally comes into effect, the efforts of those industries that took early action should receive full recognition.

## CANADA-UNITED STATES RELATIONS

### EFFORTS TO MODERATE WESTERN HEMISPHERE TRAVEL INITIATIVE

**Hon. Jeremiah S. Grafstein:** Honourable senators, I am pleased to bring some excellent news to the Senate's attention with respect to the work of two committees of the Senate to moderate the impact of the Western Hemisphere Travel Initiative, WHTI, as passed by the United States a few years ago. These steps, if implemented on both sides of the aisle and both sides of Congress in the United States, will avert massive economic dislocation to practically every community across Canada.

On May 9, 2007, Congresswoman Louise Slaughter of the House of Representatives announced that H.R.1684, the Department of Homeland Security Authorization Act, passed

the House of Representatives on May 8, 2007, by a vote of 296 to 126. The bill included language drafted by Congresswoman Slaughter.

The provisions authored by her and included in H.R.1684 come from H.R.1061, the Protecting American Commerce and Travel Act of 2007, which she sponsored. With respect to the WHTI provisions, these provisions would require the Department of Homeland Security to do the following: complete an extensive cost-benefit analysis before implementing the initiative; conduct trials on passport technology and share the results with the U.S. Congress before issuing a final rule implementing the initiative; develop a six-month grace period for travellers who are not carrying the required WHTI documentation; develop a public outreach plan in coordination with the travel and trade communities; exempt children aged 15 years and younger from the document requirements for land and sea, with flexibility for groups of children; and report to the U.S. Congress every 120 days on the implementation of the initiative. I will not detail, as has Representative Slaughter, the other changes she will require for NEXUS and FAST, which are two other acceptable documents.

• (1415)

I want to commend as well Senator Patrick Leahy of Vermont and Senator Ted Stevens of Alaska. On June 14, during its mark-up of the fiscal year 2008 Homeland Security appropriation bill, the Senate Committee on Appropriations adopted an amendment sponsored by Senator Leahy and Senator Stevens. The amendment would extend the implementation deadline for land and sea portions of the WHTI. This amendment was co-sponsored by Senators Larry Craig of Idaho and Senator Pete Domenici of New Mexico.

Last year, Senators Leahy and Stevens included language in the fiscal year 2007 homeland appropriations bill allowing the Departments of Homeland Security and State to delay the implementation of the WHTI until June 1, 2009, or three months after all requirements have been met and certified, whichever comes earlier.

I will not detail the other requirements, but they are extensive. They include seven certification requirements adopted last year before the WHTI could be implemented.

I want to commend Senators Leahy of the U.S. Senate and Congresswoman Louise Slaughter of the House of Representatives, both old friends of the Canada-U.S. Inter-Parliamentary Group, for their continued leadership in avoiding what we consider a tsunami of delays and bottlenecks all along the Canada-U.S. border that would economically ravage communities on both sides of the border.

Stay tuned, honourable senators. This summer your Canada-U.S. Inter-Parliamentary Group will continue its work across America in support of this excellent lobby.

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, before moving to Tabling of Documents, I wish to draw to your attention the presence in the gallery of the Honourable Judge Sandra E. Oxner,

Chairperson of the Commonwealth Judicial Education Institute, headquartered at Dalhousie University in Halifax, Nova Scotia, together with participants of the Intensive Study Programme for Judicial Educators. They are guests of the Honourable Senator Cowan.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

**Hon. Senators:** Hear, hear.

[Translation]

## ROUTINE PROCEEDINGS

### ETHICS COMMISSIONER

#### 2006-07 ANNUAL REPORT TABLED

**The Hon. the Speaker:** Honourable senators, I have the honour to table, in both official languages, the 2006-07 annual report of the Ethics Commissioner on activities concerning public office holders, pursuant to section 72.13 of the Parliament of Canada Act.

[English]

### ABORIGINAL PEOPLES

#### BUDGET—STUDY ON RECENT REPORTS AND ACTION PLAN CONCERNING DRINKING WATER IN FIRST NATIONS COMMUNITIES— REPORT OF COMMITTEE PRESENTED

**Hon. Gerry St. Germain,** Chair of Standing Senate Committee on Aboriginal Peoples presented the following report:

Tuesday, June 19, 2007

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

#### NINTH REPORT

Your Committee, which was authorized by the Senate on Thursday, March 29, 2007, to examine and report on recent work completed in relation to drinking water in First Nations' communities, respectfully requests the approval of funds for fiscal year ending March 31, 2008.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

GERRY ST. GERMAIN  
Chair

(For text of budget, see today's Journals of the Senate, Appendix, p. 177.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator St. Germain, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

## QUESTION PERIOD

### TRANSPORT

#### PASSENGER PROTECT PROGRAM

**Hon. Céline Hervieux-Payette (Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government in the Senate.

As everyone knows, the government has just implemented a no-fly list. Canadians will not be allowed to consult this secret list. They will have no way of knowing whether their name is on the list until they are denied the privilege of boarding an aircraft. There will have been no charges, interrogation, or trial beforehand.

• (1420)

They will have no knowledge of the criteria used by the RCMP or CSIS to add their names to the list. Need I remind you that a member of the other place, John Williams, found out that his name was on just such a list when he was trying to travel to the United States? Has the government considered that this no-fly list could contravene our Charter of Rights and Freedoms and our laws that guarantee freedom of movement and the presumption of innocence?

We have been told that there will be some 500 to 2,000 names on the list. Yet the list is secret, so how can we be sure that there will not be 44,000 names on the list, which is the case in the United States? How can we be sure that this list will not include the names of people who oppose a given regime or party? Without transparent criteria, anything is possible.

Honourable senators, this situation brings up too many questions. What is the process for putting a name on the list? What are the criteria? Who administers this secret list? If a Canadian ends up on the list by mistake, what can he do to get his name off the list?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for the question. First, the Passenger Protect program, which was specifically designed in Canada, went into effect, as the honourable senator knows, yesterday, June 18, for Canadian domestic and international flights. Reports have come back after the first day of implementation of this program that there were no problems at our airports. Travel, with the normal security measures, was as usual.



Individuals are added to the specified persons list based on actions that would lead to a determination that they may pose an immediate threat to aviation security should they attempt to board an aircraft. I think most Canadians, as they board aircraft, are comforted by the fact that our security officials have an eye out for these people. The guidelines for making the determination are focused on aviation security and may include an individual who has been involved with a terrorist group, who has been convicted of one or more serious crimes against aviation security, or who has been convicted of one or more serious and life-threatening offences and who may attack or harm an air carrier, passengers or crew members.

On the issue of privacy concerns, Transport Canada, in putting together the Passenger Protect program, worked in consultation with the Office of the Privacy Commissioner and also consulted many cultural and civil liberties groups.

[Translation]

**Senator Hervieux-Payette:** Honourable senators, the Leader of the Government in the Senate is not convincing me that having a list will protect Canadians against people with bad intentions. This list will have to be expanded. Will this list be used for all sorts of purposes, such as when we take the bus or subway, or when we go into malls or concert halls, to protect us against people with bad intentions? This list would apply to passengers on airplanes, without any criteria being known. Why would we not protect ourselves in other public places in Canada? What is the ultimate goal of this infamous no-fly list?

[English]

**Senator LeBreton:** Obviously, other agencies of government, our police forces specifically, have responsibility for protecting Canadians in public places where they work and in many perhaps vulnerable venues in the country. Most senators and most people in general would realize that aviation is a unique circumstance, in view of past events. Aviation is unique because planes, once they leave the ground, are particularly vulnerable.

• (1425)

For people who may show up at the airport and who may be asked to step aside because there is a conflict with their name, there is immediately a process in place to deal with those issues. The fact of the matter is that this measure has been brought in to protect Canadians. Canadians want to feel that every possible measure is being taken to protect their safe travel in the air, as well as in other modes of transportation, but, as I mentioned, there are other people with responsibility specifically for those areas.

I believe that most Canadians would support this measure — certainly, anyone who is worried about terrorism or the safety of their families when they board aircraft. Law-abiding Canadian citizens need not fear the Passenger Protect program.

[Translation]

**Senator Hervieux-Payette:** I would still like the Leader of the Government to tell me how many countries will be sharing this list and how many other countries will be sending us their

lists. Terrorists are not necessarily Canadian citizens. So I would like her to give us the list of countries we will be sharing it with and who will be adopting no-fly lists.

[English]

**Senator LeBreton:** The regulations prohibit air carriers from sharing the specified persons list. Obviously, police authorities such as the RCMP and CSIS and various police authorities around the world would have the means to share information. However, air carriers are prohibited from sharing the specified persons lists.

## HERITAGE

### CANADIAN CULTURE PROPERTY EXPORT REVIEW BOARD—BELL OF *EMPRESS OF IRELAND*

**Hon. Lorna Milne:** Honourable senators, to set the stage, on May 29, 1914, the *Empress of Ireland* was rammed, and she sank in 14 minutes in the St. Lawrence River off Father Point; 1,012 people died that day, a greater loss than the *Titanic*. Many were members of the Salvation Army, and there is a memorial to those members of that organization in Toronto.

Phillip Beaudry discovered the wreck in 1970, and he mined artifacts from it for 30 years, until it was declared a Canadian heritage site and looting became prohibited.

The Canadian Culture Export Review Board has blocked him from selling the ship's bell to foreign collectors for years, but I have just learned that Minister Oda, the Minister of Canadian Heritage, has given permission to export that bell.

Will the Leader of the Government in the Senate intercede with Minister Oda to prevent this from happening?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for the question. I was not aware of the specific incident she raises, so I will take her question as notice and report back.

**Senator Milne:** I thank the minister for that.

The Musée de la Mer in Pointe-au-Père has offered Mr. Beaudry \$325,000 for his collection of *Empress of Ireland* artifacts, but he wants \$1 million dollars for the bell alone.

Will the minister please prevent this bell, taken from the gravesite of 1,012 people, from being removed from Canada? I have to tell the minister that I have a personal interest in this matter because my mother, Dorothy Bainbridge at the time, came to Canada on the *Empress of Ireland* with her mother and her older brother in 1911, so I would like to see this bell kept in Canada, where it belongs.

**Senator LeBreton:** As with the answer to the first question, I will refer this matter to the Minister of Heritage, and report back to the honourable senator as soon as possible.

[ Senator LeBreton ]

## FINANCE

EQUALIZATION PAYMENTS—  
ATLANTIC PROVINCES ECONOMIC COUNCIL REPORT

**Hon. Catherine S. Callbeck:** Honourable senators, my question is to the Leader of the Government in the Senate. The latest study by the Atlantic Provinces Economic Council, or APEC, provides some discouraging analysis of the new equalization program announced by this government.

• (1430)

The APEC report shows that under the new equalization program every province in Atlantic Canada will be worse off. For example, Prince Edward Island will get less money in 11 of the next 13 years. The APEC study forecasts a loss of \$196 million to the provincial treasury in the equalization program alone. Our province relies more heavily than any other province on equalization, which accounts for one quarter of the province's revenue.

Can the Leader of the Government in the Senate explain why the new government's new equalization formula gives Prince Edward Island less in almost every fiscal year for the foreseeable future?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for the question. This report has already been the subject of some questions, because when the forecast was made for Newfoundland and Labrador, for example, the numbers were not available. As I said earlier, this report is a study like all other studies; many times, forecasts are wrong.

All provinces will benefit from the O'Brien formula. With the exceptions of Newfoundland and Labrador and Nova Scotia, and, in another form, Saskatchewan, it was supported by all provinces. In any case, the previous and, I believe, present governments of Prince Edward Island supported this new formula.

The budget has brought in this new formula, and the government believes that once the provinces deal with the monies they get through the equalization formula as well as the other monies directly transferred to provinces, such as infrastructure and education funds, the Province of Prince Edward Island will be ahead of where it was prior to the budget of March 2007.

I would be happy to obtain a specific list of all monies directed to Prince Edward Island through equalization and other programs that were in Budget 2006 and Budget 2007 to better address the full financial picture.

**Senator Callbeck:** Honourable senators, it is fine to talk about other programs, but the minister and I know that programs come and programs go. I am concerned about the long-term funding of equalization, which, according to the APEC study, will be reduced in 11 of the next 13 years.

The study also points out that this year's budget gives Nova Scotia and Newfoundland and Labrador the option of keeping the old fixed framework for equalization. However, that option was not offered to Prince Edward Island.

Why are provinces being treated differently? Why was Prince Edward Island not given the same option as some other provinces, an option that would have allowed us to keep the \$200 million that we will be losing under this new framework?

• (1435)

**Senator LeBreton:** I do not accept the premise that Prince Edward Island will be losing \$200 million. The budget was presented in such a way that there were specific concerns regarding Newfoundland and Labrador in terms of their offshore resources, as was the case with Nova Scotia. The budget was moved to the O'Brien formula, with the exception of those two other provinces, where they were given the choice of staying with the old Atlantic accord and the formula that was in place at the time the accord was signed by the Martin government or, in fact, opting into the new.

We must remember that the O'Brien commission was set up by the previous government. As a matter of fact, it was presented to all the provincial ministers of finance and premiers. They could not agree amongst themselves. Equalization is a federal program and all provinces made it clear to the expert panel during the discussions that they wanted to return to a formula-based equalization program. We took this action in Budget 2007 in response to what the provinces requested, putting equalization on a principle-based footing with a 10-province standard based on this expert panel's report.

Again, to the Honourable Senator Callbeck, on all matters in the budget, there are many programs other than equalization that go to the provinces. As I have said earlier in this place, one of the areas that has not received a lot of attention is the amount of money paid directly to the provinces for education, child care, infrastructure and the eco-trust. There are any number of programs that directly fund projects in the provinces. In the interests of fairness, I do not believe one portion can be selected out for disagreement without acknowledging the bigger picture.

**Senator Callbeck:** Honourable senators, I wish to confirm that the Leader of the Government in the Senate said she would table the figures on equalization for Prince Edward Island for the next 13 years.

**Senator LeBreton:** Actually, I did not say that, honourable senators. I said I would be happy to table figures from Budget 2006 and Budget 2007 in terms of the amounts of money that will be targeted directly to Prince Edward Island. With regard to the APEC report cited by Senator Callbeck, the numbers in that report are being questioned by some people, given the speculative nature of the results down the road.

Therefore, I did not say that I would table such a document. Going back to what I said, the equalization program has a 10-province standard that puts the provinces and the federal government on very stable footing, such that, year in and year out, equalization does not become a political football that satisfies some provinces but not others.

By following the O'Brien commission report, I believe we will be successful in putting the whole equalization question on a principled and economically sound footing. It is hoped that, once the provinces have had an opportunity to work on their budgets



and realize the amount of funds they are getting from the federal government through this principle-based equalization, plus other programs, they will come to understand that they are ahead of where they were prior to the budget of March 2007.

**Senator Callbeck:** The government leader says there are problems with the figures I have used from this APEC study. Will she present her government's figures for the estimated amount of equalization that Prince Edward Island will receive over the next 13 years?

**Senator LeBreton:** I shall take that question as notice.

• (1440)

**Hon. Percy Downe:** The information that Senator Callbeck requested of the government is public information. If the minister stands in this chamber and indicates that the APEC figures are wrong, then she has a responsibility to table the government figures. Will she do that?

**Senator LeBreton:** I did not directly say the figures were wrong. I said that some commentary in the public venue had questioned the APEC numbers. Every day, we have think tanks or study groups releasing reports that sometimes are correct and sometimes are incorrect.

I will say to the honourable senator as I said to Senator Callbeck: I will refer his questions to the Department of Finance, and they will be happy to provide any information that is public information.

**Senator Downe:** APEC, as the honourable senator knows, is an independent and non-political body. They have analyzed this budget, and it is their conclusion that Prince Edward Island will lose \$196 million over the next 20 years.

Does the Government of Canada have an accurate figure to reassure Islanders it is correct? What is the correct figure? Can the leader provide that information today?

**Senator LeBreton:** I thank the honourable senator for his question.

I cannot provide those figures today. I am not an economist. I can take his question as notice. As I have said before, many independent and non-political organizations prepare forecasts and make recommendations to governments. That is within their rights, but they are not always right.

I have heard people questioning the forecasts of APEC in the media. With that said, in answer to the honourable senator's first question, I will be happy to refer his comments to the Department of Finance. I am sure they will provide all of the information they have that is public.

## HERITAGE

### CANADIAN CULTURE EXPORT REVIEW BOARD— ARTIFACTS OF *EMPRESS OF IRELAND*

**Hon. Tommy Banks:** My question is to the Leader of the Government in the Senate. I will ask a non-partisan question for the second day in a row. I will further offer assistance, if I can in a

bootleg way, to the leader in respect of answering Senator Milne's question. I will have my pulse checked following this.

The question that Senator Milne has raised is important. A number of my constituents in Alberta went to Alberta on that ship and on other ships of the Great White Fleet, as it was then called. The *Empress of Ireland* was part of that fleet. The Canadian Pacific organization was the largest transportation system in the world at that time.

Many of my constituents have an interest in those same artifacts to which Senator Milne referred, to the extent I have written several letters over the past several months to four successive ministers of Canadian Heritage, including the current minister and her three predecessors.

The answer from each of them has come back to the effect that they cannot find anybody in Canada interested in acquiring these artifacts. That is not true.

The Musée de la mer that Senator Milne referred to in Pointe-au-Père, run by Serge Guay, is interested in obtaining those artifacts. The difference is in the amount of money that he has been able to offer Phillipe Beaudry from his own resources and those of his organization, and the difference is significant. I am sure that something can be found.

Few museums are able to suddenly cough up the kind of money needed to buy these artifacts. I would be happy to provide the honourable leader with copies, should she wish, of all of the correspondence in that regard with successive ministers, and provide her with Mr. Guay's telephone number, address and email, should that be of use to her.

• (1445)

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for the question. With regard to artifacts that have specific interest to Canadians, there was an issue not long ago where Canadians tried to prevent a Victoria Cross from being sold on eBay. This issue is a difficult one, and, as the honourable senator says, a lot of our smaller museums and people from veterans' groups or legions do not have money to compete with some of the other people in the world that perhaps have an interest and more dollars. I was unaware of this situation. I had not heard of this particular issue. I will be happy to determine from Canadian Heritage if there is a specific policy that protects Canadian interests with regard to historical artifacts.

**Senator Banks:** I can assist the minister. There is a means by which the export of artifacts of that kind can be stopped. It has been in place for the past several years. It has now been lifted and is no longer a prohibition. Rather, it is an opportunity that is provided to find competitive buyers in Canada for something that could otherwise be sold, one assumes for more money, elsewhere. That prohibition or stoppage has now been lifted.

Mr. Beaudry, who owns the artifacts, is now free, which he has not been until now, to sell them wherever he likes. The question is whether this government, and the previous government, would

not come up with the money to assist the Musée de la mer to purchase those artifacts at an amount that Mr. Beaudry would be prepared to accept.

**Hon. Hugh Segal:** I have a supplementary question on the artifacts. When the minister checks into the matter, might she look at the option of an independent assessment for the bell and the artifacts and then submit that assessment to the cultural properties review board, which makes independent assessments on behalf of the Canada Revenue Agency to determine that the value is fair? Normally, two or three estimates are required.

• (1450)

If the gap is substantial, as Senator Milne has suggested, between what is being offered by the museum and what the value is, there may be the ability for a donation to the Crown. That could then provide a tax benefit to the donor, which might reduce his loss but still keep the asset in Canadian hands. The minister could interact to constructively suggest that, if she chose to do so, after the honourable senator's representations.

**Senator LeBreton:** I certainly will ascertain that.

## CANADA-UNITED STATES RELATIONS

### DEVILS LAKE, NORTH DAKOTA— EFFECT OF FLOOD CONTROL SYSTEM ON MANITOBA

**Hon. Tommy Banks:** My question deals with a matter of concern to all Canadians, particularly those who live in Manitoba, and to all United States citizens living in Minnesota and North Dakota. My question is in regards to Devils Lake.

We did not have a resolution but a temporary stay, if I can put it that way, in the problem of releasing the waters, which in some senses are spoiled, from Devils Lake, which is not a natural lake — it has no input or outlet — into the Cheyenne River, which then flows into the Red River, which then flows into Lake Winnipeg.

There was an agreement, as a result of pressure from the provinces and the surrounding states on the State of North Dakota, to stop until it could find a way to resolve the situation by putting in a proper system of filtering so the things which we did not want to flow into places, which they have not been before, would not.

The constitution in that country is different from the Constitution here. This is an absolute right of the state. I am hopeful that the Leader of the Government will, from time to time, keep us apprised as to the efforts being made by the Government of Canada to resolve that situation and somehow stop that water from polluting — there is no other word for it — the Cheyenne River, the Red River and Lake Winnipeg. I know the government has made efforts in that respect, but can the minister, from time to time, now, if you have anything, bring us up-to-date on those efforts?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** The Devils Lake issue, as the honourable senator knows, has come up again. There is some

concern on both sides of the border. I know it has been discussed in the other place. I will ask for an update from the Department of Foreign Affairs, and inquire as to the next steps that the government proposes to take.

[Translation]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour of presenting delayed answers to three oral questions raised in the Senate. The first response is to a question raised in the Senate by Senator Rivest on May 15, 2007, in regard to official languages, the report of the Commissioner, the recommendation to create a ministerial portfolio. The second response is to a question raised in the Senate by Senator Milne on May 30, 2007, in regard to agriculture and agri-food, the Canadian Food Inspection Agency, the safety of food imports. And the third response is to a question raised in the Senate by Senator Segal on May 30, 2007, in regard to Agriculture and Agri-Food Canada programs encouraging Canadians to eat locally produced foods.

## OFFICIAL LANGUAGES

### REPORT OF COMMISSIONER—RECOMMENDATION TO CREATE MINISTERIAL PORTFOLIO

(Response to question raised by Hon. Jean-Claude Rivest on May 15, 2007)

As Minister for La Francophonie and for Official Languages, the Honourable Josée Verner works with her Cabinet colleagues to see that linguistic duality is integrated into the process of developing policies and programs. She is responsible for coordinating the entire range of federal government activities concerning official languages and to that end, she maintains an ongoing dialogue with official languages communities and key stakeholders such as provincial and territorial governments, on behalf of the Government of Canada. The Minister works closely with her colleagues to ensure that the institutions for which they are responsible fully comply with the *Official Languages Act*, including Part VII of the Act, for which she has specific responsibilities.

The government is committed to supporting bilingualism, and to supporting the minority language communities across the country. The 2003 *Action Plan for Official Languages* provided \$642 million over five years for the promotion and development of official languages in Canada. Budget 2007 built on this commitment by providing an additional \$30 million over two years for cultural and after-school activities and community centres. These activities will help enrich the benefits of bilingualism among youth, including through exchanges and youth programming.

It is inaccurate to say that the President of the Queen's Privy Council, or any other Minister in the Prime Minister's portfolio, has "authority over all the departments" or "has supra-ministerial authority". It is customary to have horizontal coordination of issues carried out by one Minister who will receive support from a department or agency.



## AGRICULTURE AND AGRI-FOOD

### CANADIAN FOOD INSPECTION AGENCY— SAFETY OF IMPORTS

(Response to question raised by Hon. Lorna Milne on May 30, 2007)

All domestic and imported food products in Canada must comply with Canada's food safety standards, which are established by Health Canada and enforced by the Canadian Food Inspection Agency (CFIA).

Canada's import inspection programs are based on internationally recognized standards and principles, and are comparable to the import inspection systems of other developed countries, such as the United States.

The CFIA's food laboratories test for a wide range of chemical and biological contaminants in imported and domestically produced food products.

With reference to the hormone, recombinant bovine somatotropin (rbST), Health Canada determined several years ago that rbST did not pose a health risk to humans; however, rbST is not approved for sale in Canada because of animal health concerns. Testing cannot distinguish between rbST (artificial growth hormone) and bST (natural growth hormone). As there are no human safety risks associated with rbST and because testing cannot distinguish rbST, CFIA does not test for this hormone in imported dairy products.

With respect to labelling, the *Consumer Packaging and Labelling Regulations* which apply to all food sold in Canada require that pre-packaged products that are wholly manufactured or produced in a country other than Canada have the words, "Imported By" or "Imported For" on the label, unless the geographic origin of the food is stated on the label — for example "Product of USA."

All consumer products sold in Canada are subject to the *Consumer Packaging and Labelling Act* (CPLA) and Regulations. The Regulations do not require specific country-of-origin markings although labels on wholly imported, prepackaged food products and bulk product packaged at other than the retail level, must include "Imported By" or "Imported For" and the name of the Canadian dealer or an indication of the geographic origin.

Imported fresh fruits and vegetables are required to indicate their country of origin.

For processed fruit and vegetable products, as well as most other foods containing a mix of domestic and imported material, for example, apple juice, the product may declare "Product of Canada" if it can be demonstrated that the last substantial step in the product's production happened in Canada with Canadian direct labour and/or material content of at least 51 per cent.

This 51 per cent figure is calculated as a percentage of the product's total direct labour and/or material cost. "Coming into being" in Canada means that the last substantial step in

the production of the product took place in Canada. This is consistent with the Government of Canada policy on "Made in Canada".

Canadian-produced foods are not required to indicate they are Canadian; however, some imported agricultural products are required to indicate their country of origin, e.g. imported dairy, fresh fruit and vegetables, meat, or fish, if not from Canada.

In keeping with the Government of Canada's general policy for consumer packaging and labelling of consumer goods, the CFIA applies the following rules in its analysis of a declaration claiming Canada to be the country of origin for goods incorporating foreign raw materials or components. The last substantial transformation of the goods must have occurred in Canada, and at least 51 per cent of the total direct costs of producing or manufacturing the goods is Canadian.

For all remaining non registered food commodities, the CFIA uses the Government of Canada "Made in Canada" policy to assess "Made/Product of Canada" statements.

### CANADIAN FOOD INSPECTION AGENCY— SAFETY OF IMPORTS

(Response to question raised by Hon. Hugh Segal on May 30, 2007)

Agriculture and Agri-Food Canada is considering the issue of local food consumption as well as the other issues that were raised during the consultation process for the Next Generation of Agricultural Policy framework. The federal government is committed to working with provincial and territorial governments and stakeholders to develop the policy framework to contribute to a competitive and profitable agriculture sector for years to come.

[English]

## CONSTITUTION ACT, 1867

### BILL TO AMEND—REPORT OF COMMITTEE— DOCUMENT TABLED

**Hon. Donald H. Oliver:** Honourable senators, I would like to refer to the record of the *Debates of the Senate* of June 14, wherein I was asked a question by Senator Cools when speaking on the report of the Standing Senate Committee on Legal and Constitutional Affairs on Bill S-4, Senate tenure. She asked me a question about some information regarding the drafting of a bill, which she had requested from Privy Council Office and Department of Justice officials when they appeared before the committee on March 21, 2007.

I undertook to find that information. The information requested by Senator Cools was prepared by the Department of Justice and transmitted to the committee clerk, Shaila Anwar, on March 27, 2007. Ms. Anwar subsequently indicated that she would circulate it to all members of the committee forthwith. Since Senator Cools was not a member of the committee, she may not have received the information when it

was circulated. I have received a further copy of that document from Mr. King of PCO, and I am pleased to table it now, as I undertook.

**The Hon. the Speaker:** Is permission granted, honourable senators?

**Hon. Senators:** Agreed.

[Translation]

## ORDERS OF THE DAY

### CANADA ELECTIONS ACT PUBLIC SERVICE EMPLOYMENT ACT

#### BILL TO AMEND—MESSAGE FROM COMMONS— DISAGREEMENT WITH SENATE AMENDMENT— MOTION TO CONCUR ADOPTED

Consideration of the Message from the House of Commons concerning Bill C-31, An Act to amend the Canada Elections Act and the Public Service Employment Act.

**Hon. Pierre Claude Nolin** moved:

That the Senate concur in the amendment made by the House of Commons to its amendments to Bill C-31, An Act to amend the Canada Elections Act and the Public Service Employment Act; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

Honourable senators, I will be brief, if only to tell you how proud I am that the government recognized the effectiveness of our work. You will recall that we put forward 12 amendments to this bill; 11 of the amendments were adopted.

There were five groups of amendments; the first group dealt with the famous bingo cards; the second dealt with the section of the bill on coming into force; the third dealt with the amendments that affect casual and temporary employees at Elections Canada; and the fourth dealt with the date of birth issue. We are pleased to note that everyone in the other place restrained themselves and accepted, I believe, the wisdom of our amendments and that they all recognized that we were right.

Lastly, we had Senator Joyal's amendment on increasing sentences. I think the government, and all members, were pleased with the change Senate Joyal was proposing.

[English]

The only amendment that is causing a little problem with the House is the question of "coming into force" — and only the coming into force of the section that deals with those famous bingo cards.

To give honourable senators some of the history, first, it was not part of the bill. It was introduced in committee, and the House of Commons committee suggested a two-month, coming-into-force period.

When our committee heard the presentation of the Chief Electoral Officer, he convinced us it was appropriate to give him 10 months to put in place all the IT work that needs to be done to give birth to that new form of information, which will remind all the political organizations every 30 minutes on election day. We agreed to 10 months. Members in the other place looked at that and decided to shorten the period to six months.

I took the liberty, because I was to speak to this today, to talk on the phone this morning with the Chief Electoral Officer and ask his opinion on the decision of the members of the House of Commons. Of course, he would have liked to have the full 10 months. However, he is ready — honourable senators will have to take my word on that — to accept the six months.

Let us assume that the bill will be passed and that Royal Assent could take place as soon as possible. The six-month clock will start on that day. He is ready to take the gamble that there will be no general election within the next six months. However, if need be, he will do his best. As he said this morning, he will probably be 85 per cent ready by then, so we will live with that.

In a nutshell, that is what we have in front of us — to shorten the time from 10 months to six months. I think it is fair; it is a good compromise, so I am recommending that we accept this amendment.

**Hon. Serge Joyal:** Honourable senators, I want to join Senator Nolin in supporting the message from the House of Commons. I just want to add one thing to the words of Senator Nolin.

When the Chief Electoral Officer testified before the committee, he requested a period of 10 months. That is where that figure comes from; it does not come from the senators around the table. Of course, he proposed that period of time because of all the other aspects of the implementation of the bill, which are rather complex.

Probably the best approach for the Chief Electoral Officer would be to use the advisory committee, where all the parties are present, and raise the progress of the implementation of the bill with those representatives and advise accordingly. I have no doubt that there is a way to face the technical problems that might lie ahead, which need to be solved for the "bingo card" to be implemented. I concur with Senator Nolin and I will be happy to support the message of the House of Commons.

[Translation]

**Senator Nolin:** I forgot to mention that during this morning's telephone conversation, the Chief Electoral Officer, Mr. Mayrand, informed me that he was going to contact the various political parties and his advisory committee to ensure that, with regard to the implementation of the appropriate mechanism for producing these famous bingo cards, everyone would be well aware of the challenges he faced and that everyone would help him achieve the objectives of the bill. Thus, you were quite right to raise that in your question and the Chief Electoral Officer was one step ahead of you.



[English]

**Hon. Lorna Milne:** I have a further question for the honourable senator. I, too, am quite willing to go along with this reduction in time.

• (1500)

The Chief Electoral Officer's main concern was having adequate time to change their computer programs. He said that he would be 85 per cent ready, but 85 per cent of a voters' list is not a whole lot. I should like to have a little more information in terms of what the Chief Electoral Officer plans to do, if the honourable senator has anything further to add.

**Senator Nolin:** I also asked 85 per cent of what? Is it 85 per cent of the names? No, the Chief Electoral Officer received that figure from his specialist this morning. Strangely, they were not informed of that until my call. He checked with his people. My understanding is that there are no test runs for these kinds of programs until there is an election. The 15 per cent is likely in consideration of adjustments to problems that will arise during an election.

Therefore, it is important to be in touch with the various political organizations to monitor progress. Definitely, the fact that each elector will be assigned a number will facilitate the production of that process. However, we never know in advance just how well it will work. We will have to make corrections to various processes after the first election. Definitely, the big cards will be ready.

**Senator Milne:** The honourable senator is saying that, no matter how great a length of time Elections Canada had, they would still be 15 per cent short and have to wait until the first election to test the program.

**Senator Nolin:** You are absolutely right.

**Senator Milne:** In that case, I have no problems with this.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

## BILL TO AMEND CERTAIN ACTS IN RELATION TO DNA IDENTIFICATION

### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Nolin, seconded by the Honourable Senator Stratton, for the third reading of Bill C-18, to amend certain Acts in relation to DNA identification.

**Hon. Marilyn Trenholme Counsell:** Honourable senators, I rise to speak in opposition to Bill C-18. I regret that I was not in the chamber yesterday when the Honourable Senator Nolin spoke to the bill and gave a very good summary of the committee's hearings on Bill C-18. I appreciate that Senator Nolin said that

this bill is truly not a partisan measure and that the result of its passage will be a safer Canada. In essence, the bill is very much about the science of the law and bringing into greater use DNA processes in the identification of criminals and in the pursuit of justice.

I was interested in the comments of both Senators Joyal and Baker following Senator Nolin's speech. Senator Joyal spoke to the need for a review and Senator Baker commented on the issue of a clerical error in the carrying out of an order, both of which were addressed by the committee.

I thought it would be relevant prior to concluding third reading debate to read into the record the observations made by the committee at its last meeting following clause-by-clause consideration of Bill C-18.

[Translation]

I will read the observations from the report of the Standing Senate Committee on Legal and Constitutional Affairs on Bill C-18.

These observations are as follows: Provided that an individual's rights under the Canadian Charter of Rights and Freedoms are respected, giving police the tools to utilize DNA fully in the investigation of crime is a worthy objective. Your Committee therefore supports the overall goals and methods of Bill C-18. We do, however, have concerns with some of its details.

First, there is the international sharing of information made possible by this legislation. We have reservations about the sharing of information found in the National DNA Data Bank with foreign jurisdictions. Our concern is that these jurisdictions may ask for information from the Data Bank in their efforts to resolve offences which are not offences under Canadian law. For example, non-violent political dissent may be considered a criminal act in certain jurisdictions and we do not wish to see the Data Bank facilitating the prosecution of these offences. Therefore, we recommend that one of the criteria for the sharing of information with foreign jurisdictions be that the offence alleged to have been committed in the foreign jurisdiction be considered an indictable offence under Canadian law and that appropriate legislation or regulations be prepared.

We spoke about the process in the case of an administrative error. Your Committee also has concerns about the ability of the Attorney General to make an *ex parte* application, that is, one without notice to, and in the absence of, the affected individual, in order to correct a clerical error on a DNA order. Given that, in almost all cases, the facially defective order will have already been executed to obtain DNA evidence that may later be used against an individual, the government should consider a future provision by which the affected individual or his or her counsel would either receive prior notice of the application or disclosure that the application has been made and the order modified.

Our third observation had to do with evaluating the work of forensic laboratories. Your Committee notes the last recommendation of the Auditor General of Canada in her May 2007 report regarding management of the Forensic Laboratory Services. She stated that the RCMP should ensure that parliamentarians receive the information that they require in order to hold government to account for the performance of the

FLS. Your Committee emphasizes that Parliament needs full and transparent reporting by the government in order to monitor and evaluate the cumulative effect that successive pieces of legislation have had, not only on the FLS, but on the operation of the DNA databank and its impact on individuals.

Our fourth observation concerns the need to examine the DNA bill through a parliamentary review. This review is already two years behind.

• (1510)

The DNA Identification Act came fully into force on June 30, 2000. Section 13 of the Act required a review of the provisions and operation of the Act within five years, to be undertaken by any committee of the Senate, of the House of Commons or of both Houses of Parliament. To date, no such review has been undertaken. Your Committee is concerned that two bills that originally set up a DNA data bank and now alter the manner in which it is operated and used will have been adopted by Parliament without a fundamental review of the system taking place. A review of the DNA system is urgently required, so that Parliament may determine what, if any, changes are required to improve it and the manner in which it is used.

[English]

It would seem that this does address the concerns spoken of at length by Senator Joyal, and those are the only considerations I wish to read into this record at third reading.

As I said in my speech on May 9, 2007, I consider this to be an important bill and an important step forward. The proposed legislation was passed in the House of Commons with only one abstention. It was passed by all parties, and it has received that same support at committee here in the Senate. This bill advances not only the safety of Canadians, but also the science and the art, if you will, of our judicial system, especially with regard to serious offences.

It has been my privilege, on behalf of the opposition, to speak to this bill, and I trust that it will receive the support of all honourable senators.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

## OLYMPIC AND PARALYMPIC MARKS BILL

### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator LeBreton, P.C., seconded by the Honourable Senator Tkachuk, for the second reading of Bill C-47, respecting the protection of marks related to the Olympic Games and the Paralympic Games and protection against certain misleading business associations and making a related amendment to the Trademarks Act.

**Hon. Larry W. Campbell:** Honourable senators, I speak today with reference to Bill C-47. I will be relatively brief, as I believe that the government minister yesterday explained the bill in great detail.

This bill makes the will of Parliament clear on the protections and legal remedies that the Vancouver Organizing Committee, or VANOC, should have. It waives the onus on VANOC to prove the most difficult part of the trademark legal test — that of proving irreparable harm. This will allow VANOC to react quickly and effectively stop illicit use of this brand.

This bill is in line with the strengthened legal provisions given to the Olympic Games by Australia, the United States, Greece and Italy. It is limited to commercial uses and will not affect the non-profit community at all. It will help to address any potential Olympic cost overruns by allowing VANOC to raise a significant amount of money from sponsorship, partnership and licences. It is interesting to note that approximately 40 per cent of the revenues for VANOC will come from these sources.

This bill allows clear exemptions for freedom of speech, freedom of expression and freedom of commentary. It exempts artistic creations, news, criticism and parody from the restrictions. It allows legitimate use of the Olympic or Paralympic mark words in a business context. Businesses will be able to use geographic names to describe their market or explain their services, for example, addresses such as 2010 Olympic Avenue or similar. Athletes with sponsors other than official Olympic Game sponsors maintain their relationships with these sponsors. Anyone who adopted or used an Olympic mark prior to March 2, 2007, will be able to continue using the mark for the same purpose and will not have to change the name of the business.

Honourable senators, this is an important bill for the Olympics, for Vancouver, for British Columbia and for Canada. I urge your support.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator LeBreton, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

## CITIZENSHIP ACT

### BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Oliver, for the second reading of Bill C-14, to amend the Citizenship Act (adoption).



**Hon. Mac Harb:** Honourable senators, Bill C-14 is a Liberal bill that was originally introduced in the last Parliament as Bill C-76 under the previous Liberal government. One would think, honourable senators, that we should be celebrating today the fact that this bill has come to the Senate, but the reality is that we should not be celebrating. Rather, we should be deploring the fact that it took more than 10 years for a good piece of legislation to make its way from the other place to this side, all because of unnecessary delays, internal bickering, unnecessary referrals and an irresponsible act on behalf of some in the other place. Needless to say, this demonstrates that when the shoe is on the other foot, or both in reverse, we are in the opposition and were able to move this bill very quickly, in fact, in record time, and are standing here today in order to ensure the smooth processing of Bill C-14 so it can finally become law.

Honourable senators, why is this bill so important? It is important because it affects the lives of so many Canadians — about 2,000 of them on an annual basis. The proposed legislation we are debating today seeks to minimize the difference in eligibility for citizenship between adopted and natural-born children of Canadian citizens. In doing so, it would make citizenship automatic for adopted children, as it is for children born to Canadians.

Under the current system, parents of children adopted abroad must first apply for a permanent residency for the children and ensure that they meet the residency requirement before they can apply for the children's Canadian citizenship. Canadian citizens who adopt children outside of Canada may face a lengthy and costly process before their children can attain citizenship. In contrast, children who are born abroad to Canadians are automatically citizens. Under the existing law, adopted children are treated differently from biological children born abroad to Canadian citizens.

[Translation]

With respect to the Citizenship Act, 1997, the proposed amendment is based on prior legislative proposals and consultations: Bill C-63 was introduced in Parliament in 1998; Bill C-16 was introduced in 1999; Bill C-18 was introduced in 2002; and Bill C-76 was introduced in 2007.

• (1520)

[English]

As I mentioned, it was a Liberal government that introduced the previous bills; however, ultimately and unfortunately, those bills did not pass. The precursor to this legislation, Bill C-76, was the last bill deposited in Parliament in 2005. It is our hope that Bill C-14 will go through the normal process and become law as soon as possible.

The Liberal government worked hard on behalf of adoptive families, creating a tax incentive for adoptive parents to offset some of the huge costs they incur when they make the choice to adopt. With some of these foreign adoptions, the costs can literally run quickly into tens of thousands of dollars. This tax incentive was a big step forward for Canadian families. This latest proposed legislation is another step in the right direction.

Many Canadians, honourable senators, are choosing to adopt children who were born abroad, and they are choosing this route for a variety of reasons, including creating or adding to their

families or adopting to help children who face difficult conditions in their birth country — in short, to offer them the opportunity of a better life. In 2004, Canadians adopted 1,955 children from abroad compared to 2,180 the year before. Intercountry adoptions to Canada have been relatively stable for the last 10 years, running between 1,800 and 2,200 annually.

Just out of interest, the top countries from which Canadians adopt children are the following: China, Haiti, Russia, South Korea, the United States, the Philippines, Thailand, Columbia, India, Ethiopia and Belarus, to name a few.

Making the decision to pursue an international adoption is not taken lightly. International adoptions are the most difficult adoptions to arrange, for a number of reasons: first the ever-changing legislation, regulations and policies in the child's country of origin; second, sensitive political issues that countries face when their children are adopted by foreigners; third, unscrupulous practices of some private adoption intermediaries in other countries; fourth, the requirement of meeting Canada's immigration and citizenship legislation, provincial regulations and the Hague Convention on Intercountry Adoptions; and, finally, technical difficulties in reaching officials in foreign jurisdictions, as well as differences in language, culture and interpretation of procedures.

In international legal matters, there are no guarantees. One might begin the process to adopt a child, only to have the process or costs change or the program end without notice. Also, reasonable time must be allowed for each agency and department to complete its procedures and to forward documents. Most international adoptions take an average of one to two years to complete — some take much longer — and cost an average of \$18,000.

Even when these obstacles and expenses have been overcome, families must face the bureaucracy of the immigration process. People hoping to adopt internationally must also arrange for sponsorship for a child through a Canadian Immigration Centre.

[Translation]

This piece of legislation is very important, not only to adopted children and adoptive families, but also to our country. Given the declining birth rate, we must rely increasingly on immigration if we want to have enough people in this country to ensure our future.

[English]

Obviously, honourable senators, Canada must work to reduce any existing obstacles adoptive parents may be facing in their attempts to grow their families. While the process of adopting is a matter of provincial jurisdiction, once an adoption is finalized at the provincial level, Bill C-14, if passed, will ensure that Canadian citizenship is automatically granted to the adopted child, as it is for children born to Canadians.

Honourable senators, Bill C-14 is good proposed legislation, and is long overdue in our country. The bill respects provincial jurisdictions and fulfils federal responsibilities. Its objectives are meant to help Canadian families welcome their newly adopted children.

This bill, honourable senators, amends the Citizenship Act, to allow a grant of citizenship to a child adopted overseas by a Canadian. In other words, Bill C-14 treats adopted children the same way biological children are treated. As I mentioned earlier, the bill eliminates the need for an adopted child to first become a permanent resident of Canada and then apply for full citizenship later.

This proposal has been supported by the courts. The Federal Court has indicated that distinctions in the law based on adoptive parentage violate the equality rights provisions in section 15 of the Canadian Charter of Rights and Freedoms. Also, under the existing law, children adopted by Canadian parents who are living abroad and who wish to continue doing so cannot become permanent residents and therefore cannot become Canadian citizens.

In 2001, the Liberal government established a special interim measure to deal with this problem under the Citizenship Act, but it was a temporary solution, one that will finally be resolved by the passing and coming into force of Bill C-14.

Under Bill C-14, the adoption must meet certain criteria, four in particular. First, the adoption must be in the best interests of the child as defined by the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption. It was important to ensure that provisions of the Hague convention were upheld, and the proposed legislation does that.

Second, a genuine relationship must be created between the parent and the child, which means the building of the family and the building of a parent and child relationship.

Third, the adoption must have been done in accordance with the laws of the jurisdictions where the adoption took place and the laws of the country of residence of the child. The law of the province in which the adoption has taken place as well as the laws of the country of residence where the adoptive child was born and lived must be upheld.

Fourth, the adoption must not have been entered into for the purposes of acquiring status or privilege in relation to citizenship or immigration. In other words, the adoption cannot be one of convenience.

This bill, honourable senators, also includes specific and important recognition of Quebec's particular adoption process. As we have heard already, that it is a crucial part of this legislation.

Our colleagues in the other place have done a very good job, under the circumstances, of working together to study and improve this proposed legislation. They examined issues relating to the appeal process and the issue of adult adoption if the adoptive parent acted as the person's parent before he or she was 18.

I commend my colleagues in the other place, specifically the members of the standing committee, for their hard work, to ensure that this proposed legislation was well studied, passed and sent to us for our consideration without undue delay.

Finally, this bill is about fairness, equity, common sense and compassion. Once the adoption process has been completed, these are Canadian parents with Canadian children who will be raised in Canada, children who should have the same rights and privileges as any other Canadian child.

I would encourage honourable senators to support this bill.

**The Hon. the Speaker *pro tempore*:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Comeau, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

• (1530)

## CRIMINAL CODE

### BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cochrane, seconded by the Honourable Senator Segal, for the second reading of Bill C-22, to amend the Criminal Code (age of protection) and to make consequential amendments to the Criminal Records Act.

**Hon. Serge Joyal:** Honourable senators, I should like to join today in the debate at second reading of Bill C-22, a bill that I consider to be very serious. This bill affects the status of teenagers in relation to the Criminal Code, since it raises the age of consent from 14 to 16 years. For us, as a chamber of sober second thought, it is important to stop for a moment and try to understand the impact this bill, if passed, could have on Canadian society as we know it.

I do not intend to delve into an in-depth historical background of the age of consent. However, many of us who have studied Canadian history will know that, at one time, one could get married at 12 years of age. Why? At that time, the so-called colonial government wanted to increase the population. At that time, people married very early, as soon as they were capable of becoming pregnant. The age of consent for marriage was adjusted to the socio-economic conditions of the time.

Today, we are asked to consider increasing the age of consent, a measure that will certainly have an impact on the kind of society in which we live.



The first element to understand is the sexual activity of teenagers. Who are the teenagers that get involved in sexual activity? I wish to bring to honourable senators' attention the most recent report of Statistics Canada, from 2005, which is close in time in terms of relevance. That report concluded that 5 per cent of teenagers aged 12 to 13 years have had sexual relations; 13 per cent of teenagers aged 14 to 15 have had sexual relations; and 41 per cent of teenagers aged 16 to 17 have had sexual relations with a partner. Among the teenagers aged 14 to 15 who are sexually active, 37 per cent had their first sexual contact between the ages of 12 and 13, 36 per cent at the age of 14 and 27 per cent at the age of 15.

The statistic we must keep in mind is that 41 per cent of Canadian teenagers aged 16 to 17 have had sexual contact with a partner.

It is important that we are called to legislate on a matter that will affect a large number of teenagers in Canada, 41 per cent of them. I took those statistics from the testimony of Ms. Lynn Barr-Telford of the Canadian Centre for Justice Statistics, Statistics Canada, provided in her testimony Thursday, March 29, 2007, when she appeared in the other chamber. That is the first point I wanted to bring to the attention of honourable senators.

The second point I want to bring to honourable senators' attention is in relation to the teenagers that are the most vulnerable, those who find themselves caught in the legal system of Canada. That, honourable senators, needs to be added to the statistics that Senator Dyck mentioned last night. It was quite late, around 10:00. I was listening carefully to Senator Dyck when she described the social condition of Aboriginal youth in relation to education.

Today, let us focus on Aboriginal youth conditions in relation to the penal system. I say that, honourable senators, with great concern. Some senators will remember when this chamber was called upon by the former government to review the Youth Criminal Justice Act in 2002. I believe Senator Milne was chairman of the Standing Senate Committee on Legal and Constitutional Affairs for the review of the act. I remember that Senator Grafstein was a member of the committee.

We introduced an amendment to that bill, Bill C-7. We signalled to this chamber that that bill was in conflict, in our humble opinion, with the Charter. Following that, the Court of Appeal of Quebec and the Court of Appeal of British Columbia confirmed there was a problem with the Charter. Since then, the problem has been remedied.

All amendments that we introduced at that time in the chamber were defeated, save for one. Let me remind honourable senators which amendment was carried by this chamber, and by one vote. I thought the amendment would have been defeated, like the others, but it carried. That amendment, honourable senators, was related to the sentencing conditions of Aboriginal youth. Section 38(2)(d) of the Youth Criminal Justice Act, sentencing principles, reads — and I quote:

(d) all available sanctions other than custody that are reasonable in the circumstances should be considered for all young persons, with particular attention to the circumstances of aboriginal young persons . . .

This, honourable senators, speaks to our concern about the condition of Aboriginal youth facing the penal system. If we are to legislate and create additional circumstances that teenagers will find themselves in when facing the penal court, we will have to ask ourselves this question: What will be the impact for Aboriginal youth?

Let me remind honourable senators of the telling figures in relation to Aboriginal youth. I took these figures from a 2004 report of Statistics Canada. "The Daily", Statistics Canada, Wednesday, October 13. Let me quote the paragraph where this issue is addressed in the report:

Aboriginal youth accounted for one in five admissions to correctional services. At the same time, Aboriginal youth represented approximately 5 per cent of the total youth population. There were approximately 6,200 admissions of Aboriginal youth to some type of correctional service. One-quarter of all admissions to sentenced custody, 22 per cent of all admissions to remand and 15 per cent of all admissions to probation were of Aboriginal youth.

In simple terms, Aboriginal youth constitute 5 per cent of the total youth population and 25 per cent of all the youth caught in correctional services.

The report continues:

Aboriginal youth had higher levels of representation in sentenced custody compared to their representation in the Canadian youth population in almost all provinces and territories. For example, in British Columbia, six times as many Aboriginal youth were admitted to sentenced custody than their representation in the youth population.

Honourable senators, that provides a quick outline of the problem in relation to Aboriginal youth. While both Aboriginal male and female youth are highly represented in correctional services, this is particularly true for Aboriginal female youth. For example, in 2004-05, female Aboriginal youth represented 35 per cent of all female youth admissions to secure custody and 29 per cent of all female admission to open custody. In other words, there is a double distortion. There is first a distortion for the group, and then an additional distortion for the female Aboriginal youth. It is a serious concern, honourable senators.

• (1540)

It might not look at first sight as something that is obvious in Bill C-22, but I want to draw your attention to it. I have reviewed the witnesses in the other place. There were 37 witnesses that appeared at the committee stage in the other place, and none of those witnesses discussed the issue of Aboriginal youth in relation to sexual crime or sexual activities. The report of Statistics Canada that I want to bring to your attention contains important figures also. I have the French version, but I will translate it for you, honourable senators. It says that we observed a general reduction of one quarter of the rate of incarceration between 1990 and 2005 in relation to sexual offences. In other words, for the last 15 years, there has not been an increase in the number of sexual offences. There has been a decrease of 25 per cent.

Therefore, what is the basis for this bill? Has the issue of sexual offences in Canada reached such a level of "crisis" that this bill is justified by this general condition?

Honourable senators, from the testimony of Statistics Canada, that is not what comes from the analysis they provided. The testimony of Statistics Canada was that, on the basis of present statistics, they cannot predict the direct impact of the adoption of this bill on the number and nature of sexual offences that will be brought to the attention of police.

In other words, there is a lack of information, from as much of the testimony in the other place as I could read quickly because I know the government wants to move with this bill, and I have no objection to that. However, there are elements in this bill that we need to look into when this bill is sent to the committee.

Honourable senators, comments were made by other honourable senators who have taken part in the debate, and I refer to Senator Callbeck, who signalled a problem with the age of consent in relation to marriage. The age of consent in provinces for marriage is 16 years old, but in the territories it is 15. If we make a crime of having a sexual relationship with someone older by five years, and it is illegal in a province but legal in the territories, we need to address this provision because it is a real problem. The definition of marriage and the definition of age for marriage is a provincial matter, of course. When we dealt with the Civil Marriage Act, we knew what we were able to legislate and what the prerogative of the provinces was. We need to review that situation to make sure there is no discrepancy.

Let us take some statistics from the Yukon. In the Yukon, Aboriginal adults make up 74 per cent of the total prisoner population. In other words, to bring the Aboriginal reality there, we will need to streamline, in one way or the other, the age of consent for marriage in the territories versus the provinces because in the territories they are allowed to marry when they attain the age of 15. Professor Daphne Gilbert from the University of Ottawa raised that technical issue when she appeared in the other place, and there is no question the committee will want to review this issue and see how that can be addressed.

Honourable senators, finally, there is the overall context of this bill. There is no question that when we bring a change that seems to be innocuous or well intentioned, because everyone who speaks in support of this bill wants to protect teenagers, we must look carefully at how that bill would impact on the sexual education and capacity of teenagers to seek advice and support, and how we address the issue of sexuality among teenagers.

Honourable senators, I refer you to another report published in 2003 by Statistics Canada entitled, *Pregnancy outcomes*. I want to quote the main results.

**The Hon. the Speaker:** I am sorry to interrupt, but the honourable senator's time has expired.

**Senator Cools:** Ask for more time.

**Hon. Senators:** Agreed.

**Senator Joyal:** Thank you, honourable senators.

This important study, as you see, is long. It was published in 2003 by Statistics Canada. It concludes the following:

The teenage pregnancy rate declined from 1994 to 1997, reflecting lower teenage birth and fetal loss rates. Through this period the abortion rate remained stable, with the result that slightly more than half of all teenage pregnancies ended in abortion by 1997.

That is serious, honourable senators, because abortion is now a method of contraception, a way to prevent pregnancy. Teenagers do not use the pill or other ways to protect themselves. They say, "If we become pregnant, we will have an abortion." It is stunning to see those statistics. Half of teenagers who become pregnant resort to abortion. That is the conclusion of this important study.

In other words, there is a great need for sexual education. When we adopt a bill that will have an impact on the sexual status of teenagers in Canada, changing something that seems simple in principle from 14 to 16, we must be careful of what we create in terms of bringing the teenagers to their mature responsibility of deciding upon their lives and how they can be assisted by the education system to understand the implication of sexual activities. If we criminalize sexual activities at the moment they are teenagers when they should be open and seeking advice, it asks of us, certainly, the responsibility to seek expertise. I hope the committee will be in a position to hear from experts, representatives of youth, social workers, those responsible for education and the Aboriginal people's community how this problem is addressed in their community, so that when we legislate, we will, as much as possible, have the general picture of the implications of such an important bill.

**Hon. Hugh Segal:** Honourable senators, I wanted to ask our distinguished colleague some questions, but he is out of time, so I will speak briefly and get out of the way.

It strikes me that philosophically, while I do not in any way differ with the references to Statistics Canada reports about sexual activity in young people, and I defer to all the lawyers in the room — God knows those of us who are not lawyers are probably outnumbered — but I do not view the Criminal Code as a sex education program. I do not view the Criminal Code as a social instrument for the achievement of certain levels of behaviour. I certainly do not agree with the notion that the Criminal Code should apply differently to different groups of Canadians as defined either by geography or ethnicity.

• (1550)

The Criminal Code, in a society of voluntary compliance, is about establishing standards. We do not have enough police officers, thank goodness, to enforce the Criminal Code broadly. It is, by and large, the norms established by the Criminal Code that constitute the basis upon which the vast majority of our society chooses to live.

I very much respect what my distinguished and much more experienced colleague has raised with respect to some of the social implications upon which senators would justifiably want to reflect.

To be fair to the senator, he was not suggesting that when the government acts in a prophylactic fashion to protect young people through legislative change this somehow constitutes social insensitivity, but he was suggesting that might end up being an unwitting result and would, in terms of what Criminal Code amendments achieve, overreach with respect to the expectation.



In the broad range of representations I receive from hundreds of parents, teachers and others across the country, there is a strong desire to have this proposed legislation proceed and to have the extra protection put into place.

I am not one of those who believe that we should necessarily be consulting Statistics Canada with respect to issues of what I would call humanistic and moral balance, which we believe is broadly protective for our society as a whole. That is what I believe to be the intent of this bill, which is why I support it and why I hope it can be referred to committee as quickly as possible.

**Hon. Jerahmiel S. Grafstein:** Honourable senators, I am curious about Senator Segal's analysis. Does he believe that if the application of the Criminal Code at an earlier age increased recidivism, that would be a good outcome of this proposed legislation?

**Senator Segal:** Of course not, but I do not believe it is the role of the Criminal Code to be doing what parents should be doing, to be doing what peer pressure should be doing, to be doing what social understanding of what constitutes social norms and rules should be doing. That is the not the precise job of the Criminal Code. The Criminal Code, as my distinguished colleague will know better than I, lays out those rules on which Her Majesty has the right to intervene with respect to protecting the public from acts that are deemed to be outside the law. I do not believe that we should be loading upon the Criminal Code the job of child rearing or creating a sense of what is appropriate and fair and what respects other people's rights, specifically when they are younger. The job of the Criminal Code is to lay out the rules under which the Crown will intervene. That is the purpose of this act. If there are social issues that must be addressed, they should be addressed in other places and other contexts. They should not be avoided, but to load that on to the code is, in my judgment, simply unfair and unmanageable.

**Senator Grafstein:** The purposes of the criminal law are, as the senator says, to establish principles or standards. However, the purpose of the criminal law is also not to be made an ass. When sociological facts overwhelm the argument about encapsulating conduct within the criminal law, then the criminal law becomes an ass. Obviously, that is not desirable, because we are here to uphold standards.

If in fact the application of this law would increase recidivism, increase criminal conduct, that would be contrary to the purposes of the Criminal Code and the criminal act.

**Senator Segal:** I agree with the honourable senator that any law that brings the administration of justice into disrepute is not to be recommended. I would also make the case that if one looks across the broad spectrum of social workers who are associated with the courts through intervention agencies that are engaged in supporting the activity of the courts, there is by and large no lack of ability, to the extent they have the capacity, to be sensitive and understanding of circumstances. Crown attorneys are charged with the duty not only of looking at the law, but also of looking at the actual context of the alleged event and determining whether it is in the public interest to proceed with the prosecution.

In that context, comments made by the honourable senator and the questions raised by Senator Grafstein will all be part of the record that will be looked at over time with respect to how Crown

attorneys will evaluate any event with respect to what criminal intent may or may not have been, which is one of the critical issues relating to the Criminal Code and how it is administered.

I agree with the general principle that there should not be any law passed that will, by definition, bring the administration of justice into disrepute. I do not believe that we cannot, as a society, act to protect young people without being continually constrained by notions of how this might be seen in administrative and/or statistical analysis sometime in the future. On that basis we could never act. I think the public of Canada would like to see young people protected in the precise way this legislation proposes.

**Senator Grafstein:** I assume, therefore, that the senator who is proposing this bill would have no objection to have sociological information at committee to determine whether the changing standard or principle proposed by this bill would have the detrimental effect that I pointed out.

**Senator Segal:** I have no intention whatsoever of expressing a view as to how the steering committee of that committee particularly will determine what is appropriate, but I trust all my fellow senators to act in the public interest with respect to the scope of inquiry and understanding necessary for them to do their job at that committee, as I expect they will do remarkably well.

[Translation]

**Hon. Lucie Pépin:** Honourable senators, I offer another perspective. In our schools, a growing number of children are becoming sexually active as early as age fourteen and a half. As we all know, some fourteen-and-a-half-year-old girls look like they are sixteen years old. If these young girls have sexual relations with someone older than they are, let us say five years older, one of their girlfriends, who might be disappointed because she wanted to go out with that particular boy, could disclose this information, namely, the fact that so-and-so is having sexual relations with so-and-so.

This could result in the arrest of the two young people. I find this completely unacceptable. Under the current legislation, if the young girl is married or pregnant, this section does not apply. However, if she has sexual relations with someone older than she is, it could be enforced.

I think we are running the risk of criminalizing our youth more and more, instead of providing them with the sex education they need.

**Senator Segal:** I attended a denominational school so I would not really know what you are talking about. I do not believe that the Criminal Code of Canada, or even the changes proposed by the government, can serve to redefine relationships between consenting youths.

The amendments to the Criminal Code proposed by the bill will provide the guidelines to be followed by officers of the Crown and police officers when complaints are made.

In my opinion, the legislation will be defined in a completely responsible manner and will be flexible. That is generally what they do at present, except that the government wants to raise the age of consent, which is a very positive initiative.

The reason why we are divided on this subject in this chamber perhaps has to do with the fact that we have different social views with regard to the laws and the standards that must be in place.

**Senator Pépin:** When you speak of complaints, I feel like I am going back to the early 1960s. I always attended a catholic school, but I think that young people who go to catholic schools spend their week-ends at home.

• (1600)

In the 1960s, when abortions were illegal, a woman could be arrested for having an abortion if she were reported to the police. My fear is that with your system the same thing could happen to young people.

[English]

**Senator Joyal:** I would like to add to the honourable senator's comment. The senator is right. The law is the law for everyone, especially in the Criminal Code more than any other code. However, there are some adjustments on the sentencing provisions of the code in relation to the Aboriginal people generally. There is a specific section in the sentencing provisions of the code that call upon the justice, once he has pronounced on the guilt or innocence of the accused and he has come to the following step which is the sentencing.

At the sentencing level the code specifically calls upon the justice to take into consideration the fact that the accused belongs to the Aboriginal community and that in the Aboriginal community there are sometimes ways to address the sentences that are more effective than to stick Aboriginal people in prison where they will be at the "university of crime."

The statistics I have provided are a fact of life. We cannot ignore them when we are asked, as legislators, to add to the number of crimes, especially in the context of a group of Canadians who are already overrepresented and already lack the kind of social assistance needed to be rehabilitated and reintegrated into the Canadian mainstream.

I want to signal that it is important when we add to the list of crimes in the Criminal Code from a situation where the sexual rapport was allowed, was totally legal and totally legitimate and was creating an additional burden on that segment of teenagers we must fully understand why we are doing it. That is why I tried to find out from the witnesses in the other place where the proposed legislation comes from. We are all for the good of society. We are all for the protection of society. The protection of society is a balance between freedom and prohibition. That is where we live in a free and democratic society.

The role of the legislature is to balance the harm we wish to repress in relation to sexuality versus the desire to legislate morality. In the decision of the Supreme Court in 1992 in the case of *Butler*, the Supreme Court pronounced on the definition of obscenity. Honourable senators might remember that famous case, where the court established a clear distinction between legislating morality, what is right or wrong according to some principles, and legislating or preventing harm done to an individual.

That is where the line must be traced in the sand. However, it is not easy and that is why in my remarks today I tried to signal to the other senators that for the sake of an objective that seems to be desirable we will be creating a situation we cannot ignore and say the other one will take care of it. When we are changing the situation and adding to the penal responsibility of citizens, especially citizens who are more vulnerable, teenagers who cannot form a definite judgment and are not mature under the law, then we have an additional responsibility to know exactly what we are imposing on them and why we are imposing it on them.

Honourable senators, that is essentially what I wanted to say.

**Hon. Marilyn Trenholme Counsell:** Honourable senators, in listening to this debate today, it strikes me that there are many very profound social issues to consider here, not just issues of the law. I am not sure what committee this is going to, whether it will go to the Standing Senate Committee on Legal and Constitutional Affairs or to the Standing Senate Committee on Social Affairs, Science and Technology. As a physician who practised for 27 years and dealt with the most intimate kind of situations in which young people find themselves needing advice, medical help and counselling, these are profound issues that go beyond the law and society in general. Whichever committee gets this bill, I hope the witnesses called will most certainly include people who understand the health, the social practices, the needs, the problems and so on of our youth, as well as the changing times.

This is a very profound issue, as honourable senators have mentioned, and it is one that will need a great deal of study before final passage. If it does not go to the Standing Senate Committee on Social Affairs, Science and Technology, I hope there will indeed be health care professionals, social workers and many people who can address the issues alluded to here today.

**Hon. Anne C. Cools:** Honourable senators, to which committee is the government planning to send this bill?

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** This bill would be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

**Senator Cools:** I must admit I have not looked too closely at the bill. However, after what Senator Joyal and Senator Segal and Senator Trenholme Counsell have said, I would like to take the adjournment and take a look at it.

On motion of Senator Cools, debate adjourned.

## CONSTITUTION ACT, 1867

### BILL TO AMEND—REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator Di Nino, for the adoption of the thirteenth report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill S-4, to amend the Constitution Act, 1867 (Senate tenure), with amendments, a recommendation and observations), presented in the Senate on June 12, 2007.



**Hon. Lorna Milne:** Honourable senators, I would like to speak to the report of the committee on Bill S-4.

I am pleased to participate in the debate today on the thirteenth report of the Standing Senate Committee on Legal and Constitutional Affairs, regarding Bill S-4, to amend the Constitution Act regarding Senate tenure.

I want to begin by thanking all those honourable senators who took part in the committee's study of this bill. The interventions in committee and the probing questions there were invaluable as the committee explored the possible ramifications of this bill and its lasting effect on our parliamentary system.

When I spoke to this bill at second reading, I recall one of my main concerns with Bill S-4 was the length of the term initially chosen by this government. A second, but no less important concern, was that under Bill S-4, as originally proposed, a senator's term may be renewable. Both of these concerns led me to this question: Does Bill S-4 exceed the exclusive jurisdiction of the federal Parliament in that it affects both the fundamental features and the essential characteristics of the Senate?

While your committee heard some evidence that would serve to relieve my fears regarding the length of term, most of the evidence suggested that my apprehension was justified and that the term chosen by this government was simply too short.

Keep in mind, honourable senators, that the preamble to Bill S-4 clearly states that the Parliament of Canada wishes to maintain the essential characteristics of the Senate within Canada's parliamentary democracy as a chamber of independent sober second thought. With that in mind, I wanted to determine through the committee hearings if Bill S-4 as originally written would alter the balance between the desires of the present government to increase the Senate's so-called democratic legitimacy while keeping in place the independence —

**The Hon. the Speaker:** I wish to interrupt the Honourable Senator Milne for greater clarity in my mind. The item that was called was number 2, and is that consideration of the report?

• (1610)

**Senator Milne:** It is No. 1 under Reports of Committees.

**The Hon. the Speaker:** I wanted to be clear. Thank you, honourable senators. I apologize for the interruption.

**Senator Milne:** With that in mind, I wanted to determine through the committee hearings if Bill S-4, as originally written, would alter the balance between the desire of the present government to increase the Senate's democratic legitimacy while keeping in place the essential independence of senators.

When Professor Andrew Heard appeared before your committee, he noted that since 1965, only 17 per cent of senators with less than four years of service have ever held a position of leadership in the Senate. He defined a position of leadership as an office that has some kind of stipendiary remuneration attached to it: in other words, pay.

Professor Heard further noted that he believes history shows that the Senate's seniority system is not only a case of waiting your time. It is also evidence of the need to acquire institutional experience and knowledge before senators can be effective in these leadership positions. He concluded that the eight-year term is too short for senators to gain enough experience and to be fully integrated into the work of the Senate.

Alan Cairns, Professor Emeritus at the University of British Columbia, noted during his testimony that senators need much experience before they are fully aware of, and understand, how the Senate works.

He also argued that a senator's term should be long enough that a prime minister will have considerable difficulty if the prime minister tries to pack the Senate overwhelmingly with the prime minister's own supporters. Professor Cairns concluded, therefore, that eight years seems too short.

Another potential concern that was brought to the attention of your committee during its review of Bill S-4 was the notion that an eight-year senator coming to the end of a term would be more likely to be less independent, diminishing the Senate as a deliberative body capable of sober second thought.

Professor Errol Mendes from the University of Ottawa noted that an eight-year senator could have lots of time left in their career and, therefore, their quality of independent sober second thought may be affected by seeking either a renewal of the eight-year term or a senior public office appointment after the end of that term.

Professor Mendes concluded that an eight-year term is too short and could be constitutionally suspect. He feared that if all senators have an eight-year term, a future prime minister could appoint the entire Senate. He concluded that serious consideration should be given to a much longer term, in the region of 12 years or longer.

What is the right number, or, as my colleague Senator Fraser pointed out during your committee's hearings, where does the crossover point come? How and what criteria do we use to determine at what point those fundamental and necessary characteristics of the Senate are affected?

In the *Upper House Reference* case of 1979, the Supreme Court essentially concluded that if a government were to provide it with a proposed change in tenure, it could determine at that time whether it would be deemed constitutional.

As Henry S. Brown of Gowling Lafleur Henderson so eloquently stated in his testimony before your committee:

... you are permitted to amend, but you may not go to the point of impairing sober second thought. In other words, some affecting of sober second thought is permitted, but impairment is not.

The second main concern I raised during the second reading of Bill S-4 was the notion of a senator's term being renewable. I am not alone in having this concern, and that is reflected in the observations that are appended to your committee's report on the bill.

In fact, the initial quotation from George Brown, Father of Confederation, on February 8, 1865, echoes my concern exactly, 142 years later:

Suppose you appoint them for nine years, what will be the effect? For the last three or four years of their term, they would be anticipating its expiry and anxiously looking to the administration of the day for reappointment; and the consequence would be that a third of the members would be under the influence of the executive.

The possibility that the prospect of having a senator's term renewed would affect their independence was supported by numerous witnesses before your committee, all echoing the sentiment of Mr. Brown.

In light of this evidence, I do not think there is any question that the possibility of a senator's term being renewed would cross the line from affecting sober second thought to impairing it, and as such, would be deemed unconstitutional if the question were referred to the Supreme Court. It was for this reason, honourable senators, that your committee amended the bill so that a senator would be appointed for a longer non-renewable term.

Why did your committee then recommend referral of this bill to the Supreme Court of Canada in its amended form? In my mind, honourable senators, and the observations of your committee reflect this view, I have concluded that there are still significant constitutional concerns as to whether this bill can properly be passed by Parliament alone.

In addition, I feel that by referring the proposal of a 15-year non-renewable term to the Supreme Court, the government of the day can perhaps prevent a period of constitutional confusion down the road.

What if the Supreme Court determines that a 15-year term will impair the functioning of the Senate in providing what Sir John A. Macdonald described as a sober second thought in legislation? Is it not better to know now before the change takes place rather than many years later when the functioning of the institution has already been compromised?

What if the Supreme Court determines that the Parliament of Canada is not empowered to present these amendments to the Constitution without agreement from the provinces? Is it not better to know now, before a change possibly affecting our constitutional legitimacy takes place, rather than have this government embarrassed at a future date when it is told it has violated the principal document in Canadian law, the Constitution?

In closing, honourable senators, it is not a question of being opposed to Senate reform because I support term limits. It is a question of making alterations to the Senate in a manner respectful of the constitutional guidelines that are currently in place to entrench the independence of senators.

I was not convinced that Bill S-4 accomplished this goal in its original form, and I still question whether the Parliament of Canada is allowed to act unilaterally with this proposal even in its current form.

However, instead of defeating the bill on these grounds, I feel that Canadians and their government deserve an answer to the question of whether both the content and the way in which Bill S-4 has been proposed is in violation of our Constitution.

I ask honourable senators to continue to reflect on this issue as they arrive at their own conclusions on this serious matter. I urge the adoption of this report.

**Hon. Tommy Banks:** Speaking to the same report, I want to tell honourable senators briefly what the view of the Alberta Liberal caucus is in respect of it and this bill.

The Alberta Liberal caucus is in favour of parliamentary reform, including reform of the Senate, and has said so. However, in the process of considering aspects of this bill, and the association that this bill has with Bill C-43, an umbilical connection, the committee, while in favour of the principle of Senate reform and parliamentary reform, took the trouble to write to the Premier of Alberta and the Minister of International, Intergovernmental and Aboriginal Relations of the Province of Alberta, both of whom replied to me to the effect that our premier, the Honourable Ed Stelmach, and the Government of Alberta are in favour of Bill S-4 as it was first presented to us unequivocally. That is the position of the Government of Alberta.

• (1620)

It is also the case that the Senate Liberal caucus has taken into account the fact that the Provinces of British Columbia, Saskatchewan, Ontario, Quebec, New Brunswick and Newfoundland and Labrador and the Territory of Nunavut have expressed adamant opposition to Bill S-4, and therefore we concur with the view of the report that it would be intemperate, at least, to proceed with the passage of a bill that would certainly be tested in court, according to the information that we have from the heads of those respective governments, of the other orders of government, as opposed to asking for a reference from the court that would settle the constitutional questions, to which Senator Milne has referred, once and for all. If the court was to determine that it is within the purview of Parliament to pass a bill, such as Bill S-4, that would settle that issue and remove all impediments to doing so.

It is simply prudent, we think, to ask the government — because we cannot — to ask for a reference from the Supreme Court in order that we can stop arguing about the constitutionality of this bill and find out what the Supreme Court says without submitting the bill having been passed to a test in the court, which would be infinitely more complicated, infinitely more expensive and infinitely more trouble. We can answer the question quicker by asking for a reference to the court. That is the view of the Alberta Liberal caucus.

**The Hon. the Speaker:** Are honourable senators ready for the question?

Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**Hon. Anne C. Cools:** Your Honour, let the record show that it was a unanimous vote.



**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Let the record show that His Honour did not hear the "on division" from this end.

**The Hon. the Speaker:** The motion is carried, on division.

**Senator Cools:** After the fact. I noticed that it was unanimous.

Motion agreed to and report adopted, on division.

Third reading suspended as per report.

## DRINKING WATER SOURCES BILL

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Joyal, P.C., for the second reading of Bill S-208, to require the Minister of the Environment to establish, in co-operation with the provinces, an agency with the power to identify and protect Canada's watersheds that will constitute sources of drinking water in the future.  
—(Honourable Senator Comeau)

**Hon. Tommy Banks:** Honourable senators, I rise to ask something which is a little unusual, but in light of the fact that everyone would agree, as a matter of course that the object of Senator Grafstein's bill is to provide clean drinking water and it is a matter that has been referred to by Senator St. Germain's report as well.

Senator Nolin has raised, however, a very interesting set of points, in reference to an act of Parliament that already exists, and which addresses, in some senses, the same question. I will ask honourable senators that without referring the bill for study to the Standing Senate Committee on Energy, the Environment and Natural Resources — and I am raising the name of that committee of which I am the chair because it has considerable experience in these matters — on the understanding that that committee would examine the question of both of the extant act of Parliament and the bill, and examine in respect of the content of the two documents, and the extent to which they either complement each other, overlap or are redundant, then that committee would be able to report to honourable senators its view before we deal with the substance of the bill.

### SUBJECT MATTER REFERRED TO COMMITTEE

**Hon. Tommy Banks:** Therefore, honourable senators, I move:

That Bill S-208 be not now read the second time but that the subject-matter thereof be referred to the Standing Senate Committee on Energy, the Environment and Natural Resources; and

That the Order to resume debate on the motion for the second reading of the bill remain on the *Order Paper and Notice Paper*.

If an explanation of that is in order, honourable senators, and I hope that it would be, with the indulgence of the house, I would ask Senator Grafstein, whose bill it is, to speak to it.

**The Hon. the Speaker:** Honourable senators, on the motion in amendment.

**Hon. Jeremiah S. Grafstein:** Honourable senators, I will not try your patience. The hour is late. I rise to support Senator Banks' motion and respond briefly to Senator Nolin's speech with respect to the substance of Bill S-208.

Senator Nolin, as Senator Banks pointed out, raised two problems from his perspective with respect to my bill. The first was the constitutional ambit and jurisdictional issue, and the possible bureaucratic overlap with the Canada Water Act.

In the circumstances, Senator Nolin and I have agreed, subject to the concurrence of our leadership and support on both sides, to refer the subject matter of my bill, Bill S-208, to committee as set out in Senator Banks' motion. Then the committee will have before it not only my proposed Bill S-208, but also the Canada Water Act to determine if there is an overlap between the two.

Let me address the history and the purpose of the Canada Water Act. The intent of my private member's bill and the Canada Water Act are quite different. The intent of Bill S-208 is to map watersheds and water tables, the sources of Canada's drinking water. The primary purpose of the Canada Water Act is to deal with water pollution and was not enacted to specifically address the question of watersheds, water tables or the sources of Canada's drinking water.

Part II of the Canada Water Act, at the outset, was focussed on large polluted water bodies like the Halifax harbour, not mapping or protection of source drinking water as set out in Bill S-208.

I say regrettably that the Canada Water Act has fallen into disregard and disuse.

• (1630)

Part II of the Canada Water Act has never been appropriately implemented, even though the legislation has been in force for decades. Reports, as mandated by the legislation to report to Parliament, have not been made since the year 2000. Simply speaking, the federal government does not have a national water strategy. As a leading expert and esteemed former high civil servant advised me just today — and I quote: "What the government has called a national water strategy is neither national nor strategic — rather, a set of seemingly random and discrete spending initiatives."

I urge senators to refer the subject matter of Bill S-208 to the committee. As Senator Banks has pointed out, he has agreed to give both the bill and the legislation a thorough review. What will emerge from that committee, I hope, will be a road map to finally divine and map out Canada's shrinking national treasure — its watersheds and sources of drinking water — to protect present and future generations.

I urge the subject matter of this bill be referred to Standing Senate Committee on Energy, the Environment and Natural Resources.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

On motion of Senator Banks, subject matter of bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.

## IMMIGRATION AND REFUGEE PROTECTION ACT

### BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the Honourable Senator Goldstein, seconded by the Honourable Senator Chaput, for the second reading of Bill C-280, to amend the Immigration and Refugee Protection Act (coming into force of sections 110, 111 and 171).—(*Honourable Senator Comeau*)

**Hon. Sharon Carstairs:** Honourable senators, I rise today to speak in favour of Bill C-280, a bill sponsored by the Honourable Senator Goldstein.

Honourable senators, many refugees come to our shores. Most are legitimate, some are not. All, however, have the right to two things: First, they have a right to a speedy decision; second, they have a right to an appeal of that decision, if the decision is not in the refugee's favour, because this decision is made by only one person and mistakes can be made.

Parliamentarians agreed with that concept when they passed the Immigration and Refugee Protection Act. However, both under the former government and this one, the appeal division has never been brought into force.

Honourable senators, both governments have used the excuse of backlogs for the reason not to bring the appeal division into force. This is unfair. Would we use the excuse that those convicted of an offence not be allowed to appeal because our courts are too busy? Of course, we would not. We know that mistakes are made in our justice system, and the right to appeal is essential to our belief in the rule of law. So, too, should be the right of a refugee to appeal a ruling of only one adjudicator.

Honourable senators, it is very clear that there is a refugee backlog in Canada, but that is hardly the fault of the refugee. Indeed, it results in problems both for the refugee and for our country as a whole. The problem for the refugee means that the longer they are separated from their country, the more difficult it will be for them to adjust if they are, in fact, forced to leave Canada.

It also raises serious questions and concerns with respect to the children that may be born in Canada during this delayed period. These children have a claim to Canadian citizenship. Quite frankly, if one reads the Convention of the Rights of the Child carefully, decisions affecting children must be made in the best interests of the child.

Perhaps I am just a very proud Canadian, but I happen to believe that the best interests of most children would be for them to remain in Canada. However, that comes in direct conflict with their right to be raised by their natural parents. Therefore, it is imperative, in my view, that refugee claims be heard quickly, to be followed equally quickly by an appeal, if such an appeal is necessary.

The reason this does not happen is insufficient resources and manpower to make it happen, but it is a false economy. If they remain in Canada — and many of them should, in my view — it is a very costly matter. They must be supported, although these costs are usually borne by the provinces — education, welfare and health care costs. The federal government does not do the right thing; we do not eliminate the backlogs and we pass the costs on to the provinces — another example I would suggest, of off-loading.

Honourable senators, we are speaking about human beings — men, women and children. Yes, there are probably some bad apples. There can be no excuse for not weeding those bad apples out, but we should do it quickly. Even a bad apple is entitled to an appeal.

So, too, should the genuine refugees be dealt with quickly. Many have had horrendous lives. If they are going to be accepted as genuine refugees, their settlement will be more positive if they can do it quickly. They will then be on their way to being successful Canadians.

Honourable senators, I urge you to support this bill.

On motion of Senator Tkachuk, for Senator Comeau, debate adjourned.

[*Translation*]

## STUDY ON ISSUES RELATED TO NATIONAL AND INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

### MOTION TO REQUEST GOVERNMENT RESPONSE ON REPORT OF HUMAN RIGHTS COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator Stratton:

That, pursuant to rule 131(2), the Senate request a complete and detailed response from the Government, with the Minister of Foreign Affairs being identified as the Minister responsible for responding to the twelfth report of the Standing Senate Committee on Human Rights, entitled: *Canada and the United Nations Human Rights Council: At the Crossroads*.—(*Honourable Senator Corbin*)

**Hon. Eymard G. Corbin:** Honourable senators, I am prepared to have a debate with Senator Andreychuk, who presented this report. For reasons that escape me, it seems that we are never in this chamber at the same time, or this item on the Order Paper is called very late in the day. I do not see the point in debating it when everyone would rather go home to bed.

However, I have a solution. Would Senator Fraser, the Deputy Chair of the Standing Senate Committee on Human Rights, agree to answer my questions on behalf of her colleague, the Chair of the committee, Senator Andreychuk? I would not want to be accused of holding up adoption of this motion. We hastily adopted the text of the report; it was agreed that I would be given the opportunity to ask my questions during study of the request for a government response to the report.



• (1640)

Would Senator Fraser agree to my request?

**The Hon. the Speaker *pro tempore*:** Honourable senators, is leave granted for Senator Fraser to answer the questions?

**Some Hon. Senators:** Agreed.

**The Hon. the Speaker *pro tempore*:** Senator Fraser, do you agree to answer the questions?

**Hon. Joan Fraser:** If the chamber had not granted leave, I would have said that I intended to say a few words about this motion myself and that Senator Corbin could have asked his questions afterward. I am not at all certain that I will be able to answer his questions, but if he wants to ask them and the chamber has agreed, I will try to answer, although I would like to say a few words afterward.

**Senator Corbin:** Thank you, honourable senators. This report was not the final report of the committee that studied the organization and operations of the new United Nations Human Rights Council, which replaced the now-defunct Human Rights Commission.

That being said, and having read the report carefully, I feel that it is premature because the Council is far from having made all of its internal governance arrangements. Moreover, the committee indicated that the council was making some of the same mistakes as the former commission. In other words, the Human Rights Commission was being used to play the geopolitical tension game, which was not only disadvantageous, but is now having a negative impact on the work of the Council, which, after all, is trying to achieve specific goals related to human rights.

In that sense, I find that the report is incomplete and premature. However, Senator Andreychuk told us that the Council had been in place for a year and that it was probably a good idea for the committee to inform the government of its concerns with respect to the issues I just brought to the attention of honourable senators.

Senator Fraser can respond to that, but personally, I think that the Council will have to work very hard to bring order and sense to its way of doing business and that we do not know the whole story.

One of the recommendations that particularly caught my interest involved the creation of the position of a Canadian ambassador for human rights. It was explained why this might be a good idea. Something did occur to me, however, after reading in the text of the report quotations from the Canadian delegation to the Human Rights Council, which seems to me to be doing an excellent job. It appears that this suggestion, to appoint an ambassador, could be interpreted as a message that we are not satisfied with the Canadian delegation to the Council. I am not sure if this is an accurate assumption, because, to back its report, the committee refers repeatedly to the excellent work of the Canadian delegation with respect to the Council.

I do wonder, however, why we need such an ambassador if our representatives, our Canadian diplomats, are doing a good job. First of all, an ambassador means an expenditure of at least

\$5 million, considering all the machinery that goes along with such a position.

Perhaps Senator Fraser could tell us whether the idea came from the Canadian organization itself or grew out of certain suggestions made by NGOs. Having read the report, I know that Canadian NGOs have some rather strong views — I would even say expert views — regarding certain issues. Where did this idea come from, this idea to ask the government to create a new position of ambassador for human rights, who would be attached to the Council and could also travel around Canada to raise awareness among Canadians about the importance of human rights? Could the honourable senator please share with us any information she may have on this?

**Senator Fraser:** First of all, allow me to say very explicitly and on the record that the committee in no way meant to criticize, directly or indirectly, the work of the people representing us in Geneva at this time. They are doing an excellent job. The idea of having a new ambassador for human rights had rather more to do with complementing their work. Those officials are in Geneva. Their duties keep them busy full time in Geneva. Theirs is not an easy job, but it seemed to us — and I hope the other committee members will find this to be an accurate summation of the substance of our discussions — that it also made sense to have someone with greater freedom to travel, not only in Canada, but also internationally, as an official representative of the Government of Canada, to deal with other governments, in order to try to advance our diplomatic position in this area, which is so important.

It would also show Canadians and the entire world that for us, human rights are not of secondary importance, but are a top priority, and that we find this issue so important that we had to appoint a very high-ranking, official representative to promote human rights.

I would like to get back to the comments you made at the beginning of your speech about the fact that it was an interim report. I am not quoting you exactly, but I think that what you were saying was that it was a bit early to be making recommendations and criticisms as we had done.

The situation is a bit odd. The Council has been in operation for one year, but when we wrote our report, some very important things remained to be determined. Key negotiations were to take place this month—in June of this year—on procedural requirements, which will be very important. These negotiations will not be about the colour of the paper used to write letters. They will have to do with, for example, how to conduct the “universal periodic review”, which is perhaps the most important tool that has been given to the new Council and which could be gutted if the proper rules are not chosen.

• (1650)

We thought it would be useful, without overestimating our importance, to add our voice to those that support good procedural rules, a solid system with teeth that will be able to conduct the inquiries, for example, in the universal periodic reviews. I apologize for not knowing the French term.

It is definitely somewhat odd to be making recommendations when the arrangements have not been finalized; however, the whole situation is a bit strange. We felt it was in keeping with the traditions of the Senate to make recommendations in an

interim report. This is not the first time this has happened. We have seen it in other cases, for example, when the Standing Senate Committee on Social Affairs, Science and Technology studied the health care system and made several interim reports. These did have an impact. We hoped to have some influence at a key moment. We know that more study is required. The situation is not yet very clear and that is why it is just an interim report. We will submit a final report when we can.

**Senator Corbin:** I thank my colleague for this information. I must say that it is difficult to read the report given that, as an interim report, it is missing information about when witnesses appeared, committee travel, the quality of witnesses, their expertise, and so forth. We will certainly have to wait for the final report to obtain that information. I must say that the lack of basic information makes it more difficult to read the report.

I was very surprised by something else when I read this document: it says that Canada is losing its traditional allies in endeavours seeking to improve human rights efforts. Australia, New Zealand and other partners are no longer its allies because the Council was established on the basis of regional blocs. This has deprived Canada of its traditional allies and reinforcements. It is somewhat isolated. That is what your report says. I am not certain that creating an ambassadorial position or appointing an ambassador will fill this void.

I get the impression, given the comments in the report on the now-defunct commission and the comments on how the new Council has been operating for the past year, that even though there are encouraging aspects, as you just indicated, absolutely nothing has been gained in terms of goodwill. It will take a long time to work objectively when it comes to human rights. There are all sorts of regional geopolitical factors that come into play in the decisions of Council members. I find this very discouraging.

The establishment of the new Council stirred up a lot of hope. Unfortunately, we should not be surprised, but all the United Nations bodies are rather cumbersome, and this one seems even more so. Instead of correcting the old problems, it is perpetuating them and adding new ones. That is how I perceive this information.

**The Hon. the Speaker pro tempore:** Honourable senators, Senator Corbin's time has expired.

**Senator Corbin:** Could I have a few more minutes to allow Senator Fraser to respond?

**The Hon. the Speaker pro tempore:** Honourable senators, is it agreed?

**Some Hon. Senators:** Agreed.

**Senator Fraser:** Honourable senators, the former commission lost a lot of its strength, credibility and effectiveness because of the policies and influence of geopolitical blocs. It was hoped that creating this Council would dampen the influence of these groups. So far, the signs are not very encouraging. We have to recognize that the group of countries that more or less share Canada's

opinions do not have as much weight within the new Council, compared to what they had in the former commission.

The observation Senator Corbin brought up in our interim report about Canada's traditional allies refers to that and also to the fact — we really have to take this with a grain of salt — that even countries that share our opinions most of the time have found on some occasions in the past year, with the new Council, that some of our positions were a bit too cut and dried, that we were not open enough to the possibility of compromise. We heard that from a number of sources, including some very credible NGOs. That is why you found these references in the report. You have to understand that we were not criticizing Canada's basic position. These are Middle East issues. The committee was not taking a position against the government's policy in general, but on certain issues, on certain votes.

We were told that Canada may have been a bit too rigid in its positions. I am trying to choose my words carefully. Perhaps Senator Andreychuk would like to say a few words to elaborate on this. I leave it entirely up to her to do so.

[English]

**The Hon. the Speaker pro tempore:** Continuing debate.

**Senator Fraser:** Honourable senators, I want to speak. I do not wish to adjourn the debate. I wish to speak briefly, if I may.

Honourable senators, I have warned a number of people, including His Honour, that when this item came up for debate, I would rise to address this point.

Let me say first that I support the motion. I think it is a good motion and that it is in order both procedurally and in the sense of being an appropriate motion for us to adopt. It is a good idea to have governments respond to serious reports produced by Senate committees.

However, senators may recall that, during the week when this item first came up, there was much discussion and argument and one could even say confusion about various things — about the correct form of motions, about the correct form of moving for the adoption of committee reports. I would ask very humbly if, perhaps over the summer, the Speaker might be willing to produce a little cheat sheet for us. It is, for example, well known to all of us that it is customary practise in this place, when a report is on the Order Paper, to stand up and say, "I move the adoption of this report."

• (1700)

However, rule 57(1) states:

Two days' notice shall be given of any of the following motions:

(e) for the adoption of the report of a special or special joint committee;

The report of the special committee on the subject matter of Bill S-4 is what first brought this matter to our attention.



Rule 58(1) states:

One day's notice shall be given of any of the following motions:

(g) for the adoption of a report from any my standing or standing joint committee.

Our long-standing practice, in which every single one of us has engaged, does not seem to match the plain black and white words of the rules. It would be nice to have some clarification in that regard, if we could get it.

There is also the matter of rule 131(2), which applies to the precise motion that Senator Andreychuk wisely and graciously agreed to split so that we would adopt the report and have a separate motion to call for a response from the government. As rule 131(2) reads, I would agree that the original motion was probably in order. The rule states:

The Senate may request that the government provide a complete and detailed response to a report of a select Committee, which has been adopted by the Senate if either the report or the motion adopting the report contains such a request, or if a motion to that effect is adopted subsequent to the adoption of a report.

I draw the attention of honourable senators to that middle passage. One can ask for a complete response to a report that has been adopted by the Senate if either the report or the motion adopting the report contains such a request. It does seem to me that this starts to become a little convoluted and labyrinthine.

This would not necessarily have to be part of the cheat sheet that I am requesting, but it might be worthy of consideration by the Rules Committee to come back and say that it would indeed be cleaner to call for two different motions in this case, the first for the adoption of the report and the second requiring a response from the government, which I think was Senator Corbin's original point when he raised this issue. We were asking for one motion to do two separate things, and that may indeed be a little beyond our normal practice.

I do support this motion and urge honourable senators to support it.

**The Hon. the Speaker pro tempore:** Continuing debate?

**Senator Corbin:** On the point of order.

**Senator Fraser:** That was not a point of order.

**Senator Corbin:** The content was actually a discussion of or debate on a point of order. Senator Fraser and I seldom agree; we split hairs.

When Senator Andreychuk presented the report to the Senate, she did not request a ministerial response. She introduced the aspect of requesting a ministerial response when she rose in the house and asked for adoption of the report. That is the first time we ever heard of a request for a ministerial response. The request for a ministerial response has to be preceded by a notice of motion, which was not done in that case, and that is why Senator Carstairs and I rose to point out that the whole thing was irregular, to say the least.

However, I agree with Senator Fraser that this particular rule or any rule that contains an "either/or" should be scrapped from the rule book, and we should come out with clear, black and white directives so that there is no fooling around with these matters.

**Hon. David Tkachuk:** I am sorry, honourable senators, but I was not clear whether Senator Corbin was raising a point of order or whether he was responding. He was raising a point of order? Very well.

**The Hon. the Speaker pro tempore:** On the point of order, I wish to thank the Honourable Senator Fraser. I will let the Honourable the Speaker know about the summer assignment that he has been given.

With respect to Senator Nolin's point of order, a decision will be forthcoming.

Further debate on the motion?

**Hon. Senators:** Question!

**The Hon. the Speaker pro tempore:** It was moved by the Honourable Senator Andreychuk, seconded by the Honourable Senator Stratton, that pursuant to rule 131(2) — shall I dispense?

**Hon. Senators:** Dispense.

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

## STATE OF RESEARCH IN CANADA

### INQUIRY—DEBATE SUSPENDED

**Hon. Wilbert J. Keon** rose pursuant to notice of June 5, 2007:

That he will call the attention of the Senate to the state of research in Canada.

He said: Honourable senators, a few weeks ago, the Prime Minister and the Minister of Industry announced Canada's new science and technology strategy. The government's strategy to achieve the goals set out in last November's economic plan, entitled "Advantage Canada: Mobilizing Science and Technology to Canada's Advantage," is a truly remarkable document. In my view, if it is supported nationally and implemented vigorously and imaginatively by all sectors of our economy, this coherent strategy has the potential to position our country for its economic future.

Science and technology is a prime basis for the economy because real wealth is created by science and technology, by research and development. I will not try in the short time that I have to justify to honourable senators the dependence of wealth on science and technology, but I will use two examples.

My own area of health care depends on fundamental scientific research in biology, sociology, ethnography, information technology, material science and many other areas, and on the development of the technologies to which fundamental research gives rise.

Health represents approximately 10 per cent of our economy. Our health care system also underpins the rest of the economy. For example, it is broadly recognized that our health care system reduces the cost of an automobile made in Canada by \$1,000 compared to the U.S.A.

Governor Arnold Schwarzenegger, in his recent speech to the Economic Club of Toronto, made very similar points with respect to the environment. He outlined the commitments being made in California to scientific research and development of technologies in global warming and sustainability of the environment. He eloquently stated his firm belief that, in addition to their environmental beliefs, the economic quality-of-life benefits to California of environmental initiatives will be comparable to those of the aerospace and information industry.

Honourable senators, let me try to offer a flavour of what I see as some of the most important aspects of this strategy.

The strategy's central driving theme is to ensure Canada's international competitiveness. A country's economy depends on succeeding in competition with other countries. We, of course, in Canada have not exploited science and technology to the fullest at this point.

• (1710)

While Canada's economy appears to be flourishing at the moment, our industries overall are much less competitive internationally than they should be. We must recognize this fundamental fact. Our few shining examples of international leaders must not blind us to the problems faced by our overall economy.

The strategy clearly recognized that governments themselves cannot create national wealth. Governments can only set the overall context within which science and technology performers can function together to create national wealth. This is necessarily a continuing process.

Governments can also help stimulate industry through carefully crafted and targeted support programs such as the National Research Council Industrial Research Assistance Program. The competitive environment is continually changing because other countries will adapt their own science and technology contexts when they perceive they are losing out; so governments, like scientists and industry, must continually stay ahead of the game.

Wayne Gretzky's trite comment about skating to where the puck is will be highly relevant to national economic competitiveness.

The strategy, "Mobilizing Science and Technology to Canada's Advantage" sets out four guiding principles. The first principle is, "promoting world class excellence." Success in competition means winning, and we do not win unless we are consistently the best.

The second principle is, "focusing on priorities." The strategy clearly recognizes the importance to Canada of excellent basic research across a broad spectrum of science. This is necessary because expertise cannot be turned on like a tap, though expertise can be lost quickly. This is especially important because no one

can predict the area of science that will yield the most benefits to the mid-term and long-term. However, the strategy also recognized that some areas offer special advantages or needs at any one time and hence need relative encouragement.

The third principle is, "encouraging partnerships." Led by such initiatives as the Networks of Centres of Excellence program, and the collaborative programs of the Canadian Institutes of Health Research, Canadians are excellent in partnership; indeed, we are recognized as world leaders.

Governor Schwarzenegger's visit to sign partnership agreements with Ontario and British Columbia demonstrate unequivocally both his recognition of Canada as a productive partner and also the excellence of Canada's opportunities.

The fourth principle is, "enhancing accountability." Of course, accountability means ensuring that our resources are used as intended. However, accountability includes also a more complex concept; that of continuing review of progress so that overall directions and operational details can be modified as success and failures emerge or the context changes.

To this end, the new Science, Technology and Innovation Council will replace the current three governmental science and technology advisory bodies. I had an opportunity on two occasions to mention to the Prime Minister and the Minister of Finance, the Minister of Health and the Minister of Industry that we cannot stay where we are when it comes to advisory councils. We must ramp up to the level of Japan, for example, that has a science advisory council that advises their prime minister every month. We should at least ramp up to the level of our American friends.

The new council will advise government and benchmark Canada's science and technology performance against international standards of excellence. This is an astute move on the part of the government and I look forward to the improvements that will accrue from this council.

Guided by these four principles, the strategy commits the government to policies that seek to create advantage for Canada under three sector themes: entrepreneurship, knowledge and talent. A fourth overarching one, of course, is accountability.

The first theme is, "to create an entrepreneurial advantage." As the title implies, this set of policy commitments is directed to industry. It seeks to foster a competitive and dynamic business environment that encourages science and technology investments.

Our exporting industries flourished when our low dollar relative to the USA allowed them to export without paying much attention to productivity. At the same time, all sectors suffered from relatively high costs of imported equipment and technology.

As a result, Canada's productivity, which was 91 per cent of the USA's in 1984, fell to 74 per cent of theirs in 2004, and appears to be falling still. This is unsustainable. Canada is the only major country with a consistent surplus and we also have the lowest debt-to-GDP ratio among our major competitors. The loonie is now approaching parity with the greenback.

Debate suspended.



## BUSINESS OF THE SENATE

**The Hon. the Speaker *pro tempore*:** The Honourable Senator Keon has six minutes left for his speech, but it being 5:15, pursuant to rules 67(2) and 66(3) I must interrupt the proceedings and order the bells to call in the senators to be sounded until 5:30 p.m., at which time the Senate will proceed to the taking of the deferred vote on the subamendment to Bill C-288.

Call in the senators.

## KYOTO PROTOCOL IMPLEMENTATION BILL

THIRD READING—MOTIONS IN AMENDMENT  
AND SUBAMENDMENT—DEBATE CONTINUED—  
VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Trenholme Counsell, for the third reading of Bill C-288, to ensure Canada meets its global climate change obligations under the Kyoto Protocol;

And on the motion in amendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Angus, that Bill C-288 be not now read a third time but that it be amended:

(a) in clause 3, on page 3, by replacing line 19 with the following:

“Canada makes all reasonable efforts to take effective and timely action to meet”;

(b) in clause 5,

(i) on page 4,

(A) by replacing line 2 with the following:

“to ensure that Canada makes all reasonable efforts to meet its obligations”;

(B) by replacing line 6 with the following:

“ance standards for vehicle emissions that meet or exceed international best practices for any prescribed class of motor vehicle for any year,” and

(C) by adding after line 13 the following:

“(iii.2) the recognition of early action to reduce greenhouse gas emissions, and”;

(ii) on page 5,

(A) by replacing line 9 with the following:

“(a) within 10 days after the expiry of each”;

(B) by replacing line 23 with the following:

“first 15 days on which that House is sitting”, and

(C) by replacing lines 26 and 27 with the following:

“each House of Parliament is deemed to be referred to the standing committee of the Senate and the House of Commons that”;

(c) in clause 6, on page 6, by adding after line 29 the following:

“(3) For the purposes of this Act, the Governor-in-Council may make regulations restricting emissions by “large industrial emitters”, persons that the Governor-in-Council considers are particularly responsible for a large portion of Canada’s greenhouse gas emissions, namely,

(a) persons that are part of the electricity generation sector, including persons that use fossil fuels to produce electricity;

(b) persons that are part of the upstream oil and gas sector, including persons that produce and transport fossil fuels but excluding petroleum refiners and distributors of natural gas to end users; and

(c) persons that are part of energy-intensive industries, including persons that use energy derived from fossil fuels, petroleum refiners and distributors of natural gas to end users.”;

(d) in clause 7,

(i) on page 6,

(A) by replacing line 32 with the following:

“that Canada makes all reasonable attempts to meet its obligations under”, and

(B) by replacing line 38 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 7, by replacing line 4 with the following:

“(3) In ensuring that Canada makes all reasonable attempts to meet its”;

(e) in clause 9,

(i) on page 7, by replacing line 33 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 8,

(A) by replacing line 3 with the following:

“Minister considers appropriate within 30 days”, and

(B) by replacing line 7 with the following:

“(1) or on any of the first fifteen days on which”;

(f) in clause 10,

(i) on page 8,

(A) by replacing line 9 with the following:

“10. (1) Within 180 days after the Minister”,

(B) by replacing line 11 with the following:

“tion 5(3), or within 90 days after the Minister”, and

(C) by replacing line 38 with the following:

“(a) within 15 days after receiving the”, and

(ii) on page 9,

(A) by replacing line 6 with the following:

“Houses on any of the first 15 days on”, and

(B) by replacing line 9 with the following

“(b) within 30 days after receiving the advice.”;

(g) in clause 10.1, on page 9,

(i) by replacing line 17 with the following:

“and Sustainable Development may prepare a”,

(ii) by replacing line 32 with the following:

“report to the Speakers of the Senate and the House of Commons”, and

(iii) by replacing lines 34 and 35 with the following:

“Speakers shall table the report in their respective Houses on any of the first 15 days on which that House”.

On the subamendment of the Honourable Senator Di Nino, seconded by the Honourable Senator Oliver, that the motion in amendment be amended by replacing paragraph (g) with the following:

(g) in clause 10.1, on page 9, by replacing line 17 with the following:

“and Sustainable Development may prepare a”.

• (1730)

**The Hon. the Speaker:** Honourable senators, the question is as follows: It was moved by the Honourable Senator Di Nino, seconded by the Honourable Senator Oliver, that the motion in amendment be amended by replacing paragraph (g) with the following:

(g) in clause 10.1, on page 9 —

Shall I dispense?

**Hon. Senators:** Dispense.

**The Hon. the Speaker:** All those in favour of the motion in subamendment will please rise.

Motion in subamendment negated on the following division:

#### YEAS

#### THE HONOURABLE SENATORS

Andreychuk  
Angus  
Cochrane  
Comeau  
Di Nino  
Gustafson  
Johnson  
Keon  
LeBreton

Meighen  
Nancy Ruth  
Nolin  
Oliver  
Segal  
St. Germain  
Stratton  
Tkachuk—17

#### NAYS

#### THE HONOURABLE SENATORS

Adams  
Baker  
Banks  
Biron  
Bryden  
Carstairs  
Cools  
Corbin  
Cordy  
Cowan  
Dallaire  
Dawson  
Day  
De Bané  
Downe  
Dyck  
Eggleton  
Fairbairn  
Fitzpatrick  
Fox  
Fraser  
Goldstein  
Harb  
Hervieux-Payette  
Hubley

Jaffer  
Lavigne  
Losier-Cool  
Lovelace Nicholas  
Mercer  
Merchant  
Milne  
Mitchell  
Moore  
Munson  
Murray  
Pépin  
Peterson  
Phalen  
Poulin  
Ringuette  
Robichaud  
Rompkey  
Spivak  
Stollery  
Tardif  
Trenholme Counsell  
Watt  
Zimmer—49

#### ABSTENTIONS

#### THE HONOURABLE SENATORS

Nil

**The Hon. the Speaker:** The question now before the chamber is the motion in amendment of Senator Tkachuk, seconded by Senator Angus.

**Hon. Hugh Segal:** Honourable senators, I am pleased to have this opportunity to participate in debate on the proposed amendment to Bill C-288. Honourable senators, climate change is one of the greatest challenges of our time. It is real, it is happening now and the consequences are huge for all of us — which is why it should be treated seriously. Climate change could



have serious affects on our health, environment and standard of living. Sadly, however, Bill C-288 is neither a rational nor practical plan to deal with climate change itself.

By requiring Canada to do in six months what is simply not doable, and what was not done in 10 years, Bill C-288 sets up the country and all those who care about this issue for another failure.

The economic arguments against Bill C-288 are strong and compelling. Should this bill be fully implemented, thousands of Canadians would lose their jobs by 2009. Prices for natural gas and electricity would go through the roof. The cost of transportation, especially in Canada's rural areas, would skyrocket. As the committee dealing with agriculture and rural poverty has found, this would be particularly hard on the poor and the impoverished living in many parts of rural Canada.

These are just the minimum official projections arrived at by the Crown in its analysis of Bill C-288 and what it would do with respect to economic problems.

Honourable senators, it is not just the Government of Canada that is making this point. Let me quote the *Montreal Gazette* of June 9, which stated that Bill C-288 was "intellectually bankrupt." The editorial noted:

Mr. Rodriguez introduced no such bill while the last Liberal government was ignoring its own promises about Kyoto. The Liberals must know Kyoto compliance is now utterly impossible.

In the June 15th edition of *The Globe & Mail*, Jeffrey Simpson, the loquacious, balanced, careful, thoughtful, always assiduous columnist, wrote that Canada's opposition parties are — and I quote:

... convinced that Canada can meet its Kyoto targets by 2012 without seriously damaging the economy. They are wrong. Canada will not, cannot and should not meet its Kyoto targets by 2012 of reducing emissions 6 per cent below 1990s levels when the country is already at about 35 per cent above that target.

Earlier, we talked about how any law that brings the administration of justice into disrepute is a bad law. Any law that destroys the good faith and the will to succeed of a country on the environmental front, which Bill C-288 would do by setting us up for failure, is also a bad law.

Consider the sentiments once held by the bill's sponsor in this place, my good friend and esteemed colleague, Senator Grant Mitchell. When he was leader of the Alberta Liberals, poor, benighted, in difficulty — do not leave senator, you will love this — in the period leading up to the negotiation of the Kyoto Protocol, he appeared a lot more mindful of potential economic repercussions for his home province than he is now. He also seemed a lot more sensitive to the need for federal-provincial harmony.

Let me quote *The Globe & Mail* of October 1, 1997:

Alberta Liberal Leader Grant Mitchell, obviously sensing that even Liberal supporters not ready for a new federal energy program that could reduce Alberta's energy revenues

by 30 per cent and cause growth and output in population to slow dramatically, called on Mr. Chrétien to at a minimum start a national public debate on the issue. He said the Prime Minister, like Mr. Clinton, should chair a national meeting of provincial energy and environment ministers, industry representatives and the public.

• (1740)

According to the *Calgary Herald* on September 26:

... the Alberta Liberal caucus support limits on greenhouse gas emissions as a worldwide goal, but not at the expense of the province's oil and gas industry.

That, honourable senators, is on the public record.

In view of these prior positions, one would think, at a minimum, the honourable senator would be a bit more leery about advancing a bill with such negative economic repercussions, particularly for his home province.

I am proud to stand here as a senator from eastern Ontario defending the economic interests of the good people and taxpayers of the province of Alberta. They are Canadians too! They deserve to be protected and not treated with the back of our hand, as we so often do, especially when Liberals are in power with confiscatory programs like the National Energy Program, the worst disregard for Alberta colleagues and citizens.

Turning back to the generally excellent amendment proposed by my colleague from Saskatchewan, a son of the prairie, Senator Tkachuk, I note that paragraph (g)(i) changes from mandatory to permissible the requirement that the Commissioner of the Environment and Sustainable Development prepare a report at least once every two years. It seems to me that such a report is indeed required and should not be optional.

#### MOTION IN SUBAMENDMENT

**Hon. Hugh Segal:** Accordingly, I move:

That the motion in amendment be amended by deleting amendment (g)(i) and relettering amendments (g)(ii) and (g)(iii) as amendments (g)(i) and (g)(ii).

**Some Hon. Senators:** Hear, hear!

**The Hon. the Speaker:** The subamendment being moved by the Honourable Senator Segal and seconded by Senator Gustafson is that the motion in amendment be amended by deleting (g)(i) and —

**Some Hon. Senators:** Dispense.

**The Hon. the Speaker:** Debate on the subamendment.

**Some Hon. Senators:** Question!

**The Hon. the Speaker:** Are honourable senators ready for the question? All those in favour of the motion, please say "yea".

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Those opposed, please say “nay”.

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my view, the “nays” have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** Please call in the senators.

**Hon. David Tkachuk:** Honourable senators, I move, pursuant to rules 67(1) and (2), that the vote be deferred until tomorrow at 5:30.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Therefore, the vote will be deferred until tomorrow, Wednesday, June 20, 2007, at 5:30 p.m.

## STATE OF RESEARCH IN CANADA

### INQUIRY—DEBATE ADJOURNED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Keon, calling the attention of the Senate to the state of research in Canada.—(*Honourable Senator Keon*)

**The Hon. the Speaker:** Honourable senators, we now return to Inquiry No. 35, Senator Keon, for the remainder of his time.

**Hon. Wilbert J. Keon:** Honourable senators, I truly appreciate having an opportunity to continue my speech. I was afraid that the speech by my soft-spoken friend, Senator Segal, may have lulled some of you to sleep. I will attempt to wrap things up.

I left off identifying the four priorities in research, which are environmental sciences and technologies, natural resources and energy, health and related life science technologies, and information and communications technologies. These are the priorities of the government for the present time, and they will be periodically reviewed.

Agencies responsible for supporting research in universities and federal research performing organizations will collaborate to build critical masses in these priority areas by supporting multidisciplinary research that brings together the needed expertise. The programs will also be studied to identify best practices and thus further strengthen them.

One important initiative is to review the federal government's in-house research programs to determine how government will be best able to deliver benefits to Canadians.

To fulfill its policy and regulatory mandates in areas such as health, safety and the environment, government must have rapid and efficient access to top-level science and technology

expertise. Strong research within government facilities is therefore necessary, and Canada's government researchers serve Canadians very well.

The intention in the strategy to transfer non-regulatory federal laboratories to universities or to the private sector will require careful balancing of many competing priorities. What will best serve Canadians must be determined by the four principles on which the strategy is based and not be subsumed under other objectives such as cost savings or regional concerns.

The strategy's third theme is to create a people advantage. People, not institutions, do science and technology. Talented, skilled, creative people are the most important, critical element of a successful national economy over the long term. Talented, skilled and creative Canadians work all over the world and this illustrates the problem.

We have the highest fraction of any OECD country of people within tertiary education. However, we are in the bottom half of OECD countries in terms of the percentage of degree holders who are trained in natural sciences and engineering, the ratio of young Canadians with Ph.D.s, and the fraction of total employees who are in the S and T occupations. We are extremely low compared to other OECD countries.

We do not produce enough S and T personnel, and we lose many of those we do produce to other countries. We would be in even worse straits without the ability to attract talented and trained people from other countries, but many of these people are driving taxis.

Well-trained and dedicated people are very mobile. Excellent people spend at least a decade in university education and training and demonstrating their potential through publications in the international science and technology literature.

They then want to use their talents and contribute. They will do so whenever they can find an environment that will meet their professional and quality of life aspirations. International organizations compete vigorously for such people. Canada may compete fairly well in regard to quality of life, but we do much less well in terms of professional advancement.

The strategy therefore rightly targets the need to train, attract and retain excellence. It returns again to taxation, with commitments to make the taxation system fairer so as to ensure that Canada attracts and retains the highly skilled workers who are essential to fostering innovation and growth.

The strategy aims to reduce the barriers to mobility and recognition of professional qualifications that now bedevil optimal workforce practices. It seeks to provide stable and predictable funding for postsecondary education, increase support for research internships in industry and provide more and higher value scholarships for advanced level trainees.

Honourable senators, I have tried to summarize what I see as a very important strategy for Canada's future economic growth, mobilizing science and technology to Canada's advantage.



There is a story of a meeting between American and Japanese auto makers talking about long-term planning. Timescales were the major factor impeding effective communications. Five years was a very long term for the Americans; 25 years was getting close to being interesting for the Japanese. This strategy seeks to think like the Japanese. It seeks to position Canada far beyond the life expectancy of any government.

Any one can find fault with aspects of a strategy as complex as this one. I am definitely concerned about some of its emphasis and balances. That is not the point. The point is we have an outstanding science platform collectively built over the past 20 years by government, academia and industry. By many yardsticks, it is outstanding compared to global standards. This platform has been given a huge boost in the last budget, with \$9.2 million supporting the collective Canadian effort. We now have an excellent science and technology strategy so we can move with confidence to a knowledge-based economy where we should be and not rely totally on our natural resources.

On motion of Senator Losier-Cool, debate adjourned.

• (1750)

## NATIONAL SECURITY AND DEFENCE

### COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF VETERANS' SERVICES AND BENEFITS, COMMEMORATIVE ACTIVITIES AND CHARTER

**Hon. Tommy Banks**, for Senator Day, pursuant to notice of May 31, 2007, moved:

That, notwithstanding the Order of the Senate adopted on May 11, 2006, the date for the presentation of the final report by the Standing Senate Committee on National Security and Defence on the services and benefits provided to Canadian Forces, veterans of war and peacekeeping missions and members of their families in recognition of their services to Canada, be extended from June 30, 2007, to March 31, 2008.

He said: Honourable senators, Senator Day is the chair of the subcommittee of the Standing Senate Committee on National Security and Defence. As we all know, he is presently chairing the Finance Committee dealing with Bill C-52. He has asked, therefore, that I move the motion standing in his name. This has the effect of extending the deadline date for the presentation of a report by that subcommittee on the services and benefits provided to Canadian Forces veterans of war and peacekeeping missions, et cetera. It is exactly the same order of reference as presently possessed by the committee, and I move the adoption of the report in his name.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

[ Senator Keon ]

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

### COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF PROVISIONS OF CONSTITUTION ACT, 1867 RELATING TO SENATE

**Hon. Wilbert J. Keon**, pursuant to notice of June 7, 2007, moved:

That, notwithstanding the Order of the Senate adopted on December 14, 2006, the date for the presentation of the final report by the Standing Committee on Rules, Procedure and the Rights of Parliament, authorized to examine and report upon the current provisions of the *Constitution Act, 1867* that relate to the Senate, be extended from June 21, 2007, to June 24, 2008.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

## BUSINESS OF THE SENATE

**The Hon. the Speaker:** Honourable senators, shall it be deemed that I see the clock as 6:00?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** It now being six o'clock, I am obliged to leave the chair until eight o'clock, when we shall resume.

The sitting of the Senate was suspended.

• (2000)

[Translation]

The sitting was resumed.

## PUBLIC SECTOR INTEGRITY COMMISSIONER

### NOMINATION OF MS. CHRISTIANE OUMET—CONSIDERED IN COMMITTEE OF THE WHOLE

On the Order:

The Senate in Committee of the Whole in order to receive Ms. Christiane Oumet respecting her appointment as Public Sector Integrity Commissioner.

The Senate was accordingly adjourned during pleasure and put into Committee of the Whole in order to receive Ms. Christiane Oumet on the matter of her appointment as Public Sector Integrity Commissioner, the Honourable Rose-Marie Losier-Cool in the chair.

**The Chairman:** Pursuant to Order, the Senate put into Committee of the Whole in order to receive Ms. Christiane Oumet on the matter of her appointment as Public Sector Integrity Commissioner.

[English]

Before we begin, may I bring your attention to rule 83 which states:

When the Senate is put into Committee of the Whole every Senator shall sit in the place assigned to that Senator. A Senator who desires to speak shall rise and address the Chair.

Is it your pleasure, honourable senators, that rule 83 be waived?

**Hon. Senators:** Agreed.

[Translation]

**Senator Comeau:** Honourable senators, I move, seconded by Senator LeBreton, that Ms. Christiane Ouimet be invited to take a seat in the Senate Chamber.

**The Chairman:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

**The Chairman:** Ms. Ouimet, on behalf of all the honourable senators, I welcome you to the Senate. You have been invited here to answer questions regarding your appointment as Public Sector Integrity Commissioner.

We will begin with your opening statement. Afterwards I will open the floor for questions from senators.

[English]

Ms. Ouimet, you may begin with a brief statement.

[Translation]

**Ms. Christiane Ouimet:** Madam Chair, honourable senators, I am very pleased to be here with you today to discuss my appointment as Public Sector Integrity Commissioner. It is a true privilege and a great honour for me to be considered for this position.

I would like to share my background with you and tell you about my perspective on the responsibilities associated with this position, which is important to the public service, to Parliament and, I think, to all Canadians.

[English]

By way of introduction, let me tell honourable senators a little bit about myself. I come from the small village of St. Albert, Ontario, where I was born on a dairy farm to Madeleine Laflèche and the late Albert Ouimet. I finished my primary education at the local school and then went on to "le village voisin," to the Casselman High School. Subsequently, I completed my honours degree in French Letters at the University of Ottawa and then completed two bachelor's of law, one in civil law and the second in common law. I articulated with a local firm, with a focus on general practice, and then I completed my bar examinations. My

husband and I have been married for 26 years, and we have two wonderful daughters.

I joined the federal public service in 1982 as a recruit of the then Atomic Energy Control Board, now known as the Canadian Nuclear Safety Commission, as a regulatory and public consultation officer. This was also my introduction to the importance of a sound regulatory framework for the benefit of the public and industry alike. I then moved on as a Public Service Commission Appeal Board Chair, where I conducted inquiries into the appointment and release of public servants. This involved a quasi-judicial role in ensuring that the merit principle was adhered to when an appointment was made and that employees who were demoted or released from their positions had been given a fair chance to be heard.

In all cases, of course, the principles of natural justice have to be respected. A new tribunal now embodies those principles in relation to appointments. Sound, fair, transparent and meritorious stamping processes are the foundation of a public service that is able to provide the best services to Canadians.

After a short term heading the Regulatory Affairs Directorate of Revenue Canada, in the customs division, I became the first director of the merged enforcement operations section, which included commercial fraud investigations and the drug interdiction program. As a result of the rigour of our processes and the diligence of our officers, we had an excellent record of prosecuting cases.

In 1992, I joined the machinery of government secretariat in the Privy Council Office where I had the privilege of serving three prime ministers and providing advice on the economic portfolio in the context of transitions and government restructuring. Providing guidance on the roles and accountability of senior public office-holders was also part of my ongoing responsibilities. In that context, I learned about the functioning of the government and the importance of independent advice from the public service to ensure continuity and good government.

I later served at the Department of the Solicitor General of Canada for five years, where I eventually became Assistant Deputy Solicitor General with direct responsibility for the Aboriginal Policing Program. I will forever treasure the honorary title that the First Nations Chief of Police Association awarded me as Honorary First Nations Chief of Police.

At the end of 1999, I became the CEO of Consulting and Audit Canada at Public Works and Government Services, where we offered, on a cost-recovery basis, a full range of services aimed at improving effectiveness, efficiency and accountability. A few years later, I would come back to that same department as Associate Deputy Minister, during which time I guided a major restructuring of an organization with more than 14,000 employees. I was also very much involved in the department's new Values and Ethics Action Plan in 2004 and assisted in resolving a number of operational issues.

• (2010)

Just prior to that, I served as Executive Director of the Immigration and Refugee Board, the largest administrative tribunal in the country post-September 11. During this period, a very successful alternative dispute resolution model was developed within our Immigration Division. I do know that



alternative dispute resolution is key for the sound operation of administrative tribunals, which are set up specifically to render justice more quickly and simply than traditional courts in specialized fields.

Finally, I shall make a few comments about my current position as Associate Deputy Minister at Agriculture and Agri-Food Canada. My role there is to support the deputy minister as he or she sees fit and to act on their behalf as required, but I have been primarily involved during the last few years with corporate issues such as relations with employee unions, grievances, diversity issues, human resources strategies and audit. I have also been charged by the current deputy minister with the role of Champion, Values and Ethics.

One might say that I have had an eclectic career. However, I think the common thread has been a desire to serve and to make a contribution in the public interest.

I believe my legal background has served me well, especially in quasi-judicial environments that are, of course, similar to the Office of the Integrity Commissioner. I do feel privileged to be considered for the position of Public Sector Integrity Commissioner.

I have examined the new provisions of the Public Servants Disclosure Protection Act to assess the tasks that lie ahead. As I see it, the intent of these new provisions is to legislate a strong regime to govern the disclosure of wrongdoing in the federal public sector. The key elements include the creation of the position of commissioner, reporting directly to Parliament, with an expanded jurisdiction and significant investigative and enforcement powers; authority for the commissioner to report on investigation findings, to make recommendations when wrongdoing is established, and to make annual and special reports to Parliament; and a clear prohibition against reprisal action against complainants.

Added protection to potential complainants is offered through an application by the commissioner to the Public Servants Disclosure Protection Tribunal for determination on reprisal as warranted. A number of other provisions, such as legal assistance and protected disclosure, also strengthen the role of the commissioner and enhance the accessibility of the process.

In due course, I would carefully examine the relationships between the role of the commissioner and those of other oversight bodies and parliamentary agencies, but again, the legislative framework set out in the act will be the ultimate goal and guide.

The position of Public Sector Integrity Commissioner is one that carries with it the trust and confidence of Parliament. Simply put, the essential role of the commission and the office will be to give effect to an act that has the purpose of encouraging employees in the public sector to come forward if they have reason to believe that serious wrongdoing has taken place and to provide protection for them against reprisal when they do.

The goal is a system that is fair and accessible and allows justice to be served. More important, the goal is to protect the public interest.

[Translation]

Throughout my career I have had the privilege of serving Canadians in various roles. I am honoured that you would consider me for the position of Public Sector Integrity Commissioner. The commissioner helps improve the reputation of the public sector by providing greater transparency and openness for anyone who feels they have been mistreated.

I come from a humble background, but one where honesty and frankness are important values. My father was always seen as a man of great integrity, and I am proud of that. This reputation was in a way his trademark, not only in our small community of St. Albert, but also in the surrounding communities.

In his memory, it is with humility and pride that I will bear the title of Public Sector Integrity Commissioner, if the committee and the Senate decide that I am deserving of their trust.

**The Chairman:** Honourable senators, we will now proceed to a question period.

**Senator Hervieux-Payette:** I have no intention of casting doubt on Ms. Ouimet's merits or her career. I would like to remind honourable senators, however, that I made it clear that I opposed this bill and that I am against the principle of whistle-blowing. In my opinion, this principle undermines the trust that should prevail between members of the public service and constitutes a system that runs parallel to our justice system. I simply wanted to point out my position.

It would be up to you to prove, through your actions and in the execution of your duties, that my fears concerning abuses that could result from whistle-blowing are unfounded and that our justice system would be generally well served.

This system has been in effect in the United States for several decades. We all remember certain notorious whistle-blowing cases involving private companies that committed serious infractions, costing the American economy billions of dollars. I would remind the Senate of the person who discovered flaws in the American security system, which otherwise could have prevented the events of September 11, 2001. These people who denounced the flaws and who had even prepared reports not only were not compensated, but they were in fact punished. Most of them were women, who have since encountered considerable difficulties in their careers. Rather than advancing in their careers, they have taken a step back.

However, some people can be wrongly accused. This might happen out of jealousy by a colleague, out of a sense of competition, malice or vengeance. I have not seen many cases where reprimands were issued for the consequences of these false accusations.

The Auditor General can notify us of mismanagement, or honest mistakes. But incompetence is another matter. There is also the Attorney General. In the case of an offence, prosecution is the usual course of action. If a person commits theft or an offence, misappropriates funds, the private sector turns to the existing justice system. I therefore do not see the need for a different system for public servants.

You say that the system will be fair and independent. I am not challenging what you are saying. However, I have some reasonable doubt about the role itself. I think this tool can be used in an invidious manner. I knew of real cases in the public service where people were victims of unjustified whistle-blowing. These people became sick and had to be hospitalized. Some people had to resign from the public service because the stress was too much to bear.

We have to weigh the consequences of the complaint against these disadvantages for the accused. I would like you to specify the tools that will be available to you both to protect the rights of the accused, when you undertake an investigation, and to guarantee integrity.

• (2020)

I am referring to people who were subjected to investigations concerning their honesty. A team of auditors examined all the figures, from A to Z, for months, looking at taxi cabs to see how money was spent. In the end, the investigation cost more than the alleged infraction. It is a question of just how much we are willing to spend to reach the conclusion that there was indeed a violation, versus a \$100 million misappropriation of funds. A sizeable amount could be spent on that. A similar situation arose in the Department of National Defence, where \$90 million was misappropriated, and our current justice system took care of it properly.

Can you please tell us how you plan to carry out your duties? It will be quite a challenge for you to prove that Canadians can benefit from the services of a Public Sector Integrity Commissioner, without discouraging people from joining the public service and without suggesting that they will be constantly scrutinized or under the watchful eye of people who may wish to harm them and who can use this system to do so.

**Ms. Ouimet:** Thank you, Madam Chair. I would first like to say a few words in response to Senator Hervieux-Payette's concerns. I think there are three features that are absolutely crucial for anyone who wishes to fill the position of commissioner.

The commissioner must play a neutral role and must be perceived as doing so, taking into account all the important factors. More than 25 years ago, I took the Barristers Oath. I took an excerpt from that oath and, as an officer of the court, I am obligated to protect and defend the rights and interests of my fellow citizens. I must also ensure that no one's rights are neglected. There is a particular provision under which I cannot refuse causes of complaint reasonably founded, nor can I promote suits upon frivolous pretences. I take this very seriously, as an officer of the court.

Second, I would be guided by the parameters of the law. A Supreme Court decision handed down several years ago makes it very clear that, when it comes to the rights of individuals, whether complainants or respondents, it is absolutely crucial to follow the principles of natural justice. This applies to everyone who might be involved, either directly or indirectly.

In my statement I said that I would carefully examine the roles of officers of Parliament who have specific mandates and any monitoring agency, in order to ensure that we work together, but that the best expertise is drawn on when needed.

Finally, I take the reputation and rights of individuals very seriously. Over the years and in all the roles I have had, I have always been aware of the impact these administrative decisions could have, in some cases on the life of a refugee, and in other cases on the reputation of an individual.

I would like to provide as much assurance as possible that I will fill this position with diligence and dedication.

[English]

**Senator Segal:** Welcome, Ms. Ouimet. I am always delighted to see an alumnus of the University of Ottawa be elevated even further in the firmament of the federal government — *félicitations sincères et profondes*.

You will have an interesting and compelling task, not only to sort out the frivolous complaints, as suggested by my colleague Senator Hervieux-Payette but also the fact that the mere existence of your office may be used by various players in the broad democratic and political game to advance their cause independent of what your findings in any particular case might be.

For example, you receive, let us say, two complaints. Let us assume that one of them is not frivolous but substantial, and the other one is, but you cannot tell, *prima facie*, and you must investigate.

It strikes me that one risk you face, and I would be interested in your reaction to this, is that one of the complainants, and we do not know whether it is the substantial or the frivolous one, decides to release the nature of their complaint to the media, precisely at the same time they share it with you. Already the problem of the attacked public servant's reputation is in play before you even have a chance to begin your work with respect to what substance may or may not exist.

In the subsequent case, let us assume, as an officer of Parliament, you find yourself in the context where, either in the other chamber or in this chamber, questions are asked of government ministers about an allegation that has been made relative to a public servant, to which the response of the minister may well be, "I understand the matter is under investigation by the Public Integrity Commissioner, so it is inappropriate for me to comment at this time."

In every one of those circumstances, the existence of your office, independent, if I may say, of the substance of the complaint, may be used for various dynamics. I would be interested in, as you approach your task and become established in the role, how you intend to protect yourself, your independence and your capacity to conduct investigations in confidence in the broader context of the dynamic that tends to play out when these sorts of things become matters of public interest.

**Ms. Ouimet:** Thank you very much, Madam Chairman. I would like to perhaps add to my previous response in responding to Senator Segal that I value the importance of the role as agent of Parliament and tabling the report in the approach that I will take in dealing with specific cases. I will seek guidance in an open way from both chambers with respect to how I will deal with specific issues. I will receive some reaction, hopefully, from both Houses.



With respect to the specific cases that have been raised by the senator, of course, there is a detailed procedure with respect to how disclosure is made. Of course, a complainant who comes forward may be entitled to protected disclosure if specific criteria of the legislation have been met, for example, if there is an issue of security or if time is of the essence, but at that point in time it is no longer called a "protected disclosure." That happened in a number of instances previously where people would decide to take their case to the media.

I do not think that is the proper way to handle it. Once we have specific criteria, we need to be respectful of institutions that have been set up democratically, for the benefit of the complainant and the respondent.

I cannot comment on the specific cases, but, of course, the act will no longer offer the protection that it would offer such as anonymity and protection of the information, if the individual comes forward.

I will be guided by the legislation as to how each case needs to be handled, and there is a full range of tools including, first, determining the scope of the mandate, the jurisdiction and assigning an investigator to look specifically at all the details. There are specific provisions under natural justice as well. A hearing is useful. In the cases where there is an allegation of retaliation, the tribunal will be set up.

All this is to say I would expect that there will be some cases that are more meritorious and others that are less so, but I will follow the process set out in the legislation and will ensure every step of the way that individuals are given a fair chance to be heard and that, as commissioner, I will look carefully at all angles of the issue.

• (2030)

There may be situations, and the honourable senator is correct, where the case may be discussed by senior public office-holders. It will not deter me from ensuring that we look at the evidence as it is presented in the context of the investigation and, again, that natural justice and procedural fairness is respected in every way possible.

**Senator Segal:** You will have obviously some modest staffing to do to assist you in this process. If you could wave a magic wand and have precisely the staff that you think would best serve this purpose, could you provide us a general view of what their professional formation would be? Would they be lawyers such as yourself? Would they have an investigative background? In a perfect world, what kind of staff would you hope to be able to have?

**Ms. Ouimet:** I will look for the magic wand, and maybe next time I will bring it with me.

First, it is not the quantity but the quality of the staff that matters. I will build on some excellent work that has been done over the last five years.

While I was in quasi-judicial roles, I had colleagues that had a legal background. I think it could be an asset in certain instances. I also had colleagues that brought a full range of backgrounds and experiences, such as human resources, labour relations, as well as some with an enforcement background.

Depending on the case, whether a person is a researcher or an investigator, I would definitely look for credible people with integrity who will follow the guidelines set out in the legislation.

**Senator Tkachuk:** Thank you for your presentation. Welcome to the Senate, Ms. Ouimet.

I have a couple of questions as to when you become involved in a case or a situation. Let us say there is a whistle-blower who sees something wrong, such as an ethical or perhaps a criminal situation, where there may be fraud going on or something like that, and they take action by reporting it. At that time, do they report it to you? Do they report it to their superior and then to you? How do you become involved and what do you protect in the case of someone who is reporting a situation?

Second, how do you check out the mischief that is possible in all of this? This is a huge organization with many jealousies and tens of thousands and people. It can be difficult.

How do you get involved when a whistle-blower says, "This is a bad situation and it is going on in my department"?

**Ms. Ouimet:** First, as set out in the legislation, the *dévoileur* has the option of either going to his immediate supervisor, to the officer responsible for disclosure within the department or to come directly to the office of the commissioner. Then it will fall upon the commissioner to determine whether, *prima facie*, the case falls within his jurisdiction.

At that point, there must be a determination of criminal activity. That was very much my philosophy when I was working at customs. I was responsible for criminal investigations. Of course, detecting fraud was one of the key elements of our activities.

I had specially trained people, especially when dealing with fraud, to execute search warrants with the approval of the court. That gets into a very delicate area. It is a very intrusive power when you execute search warrants, which I have done, on private residences or on commercial premises. I will have to decide whether the issue would be best pursued under a criminal investigation led by police officers or enforcement authorities.

That is why I indicated earlier that it is critical that while we establish the mandate, we must also look at staffing matters. There is a specific tribunal that now has responsibility for appointment reviews. There is a reason why each organization has been set up, but we have to ensure that there is no duplication and that the complainant is best served by the institution that has the clear mandate and all of the tools. If it falls within my mandate, I would follow the process I referred to earlier.

**Senator Tkachuk:** Where is the onus, though? If someone comes to you and reports something that you may suspect is criminal, is the business of the bureaucrat that came to you complete? Does he have an obligation to report the incident to the police, or once he reports it to you, is it over and you decide whether or not it should go to the police? It seems strange to me, and I am still trying to figure out how this organization will work.

**Ms. Ouimet:** Everything depends on the case; for example, the seriousness of the evidence, whether the lives of individuals are at stake and whether we are looking at a national security issue.

There is provision for legal assistance to the complainant, and I would not hesitate to use it. There is \$1,500 available for that purpose, up to \$3,000, but the tribunal would also have some flexibility.

The onus would be on the commissioner's office to guide the complainant. The complainant has an onus, has brought forward critical and serious issues, and he or she must be able to collaborate and bring forward whatever reasonable evidence there is. That is the way the legislation is crafted. It is useful for the appropriate determination.

**Senator Fraser:** Welcome to the Senate. I have what I think is a simple question. What do you expect to be your budget and your staff? I am not asking to the dollar or to the part-time telephone operator near, but can you give us an order of magnitude?

**Ms. Ouimet:** I received a brief courtesy call by the existing executive director or acting commissioner. He informed me that there are currently about 12 to 15 people and they expect to double the resources. I did not ask specifically what the budget was. I have looked at previous years as to what the budget was. I wanted to be briefed on the people who will be selected to occupy those positions.

It is always difficult early in a mandate to determine the exact resources that are required. I will not hesitate to come back to this house in my first report to provide the specific details required by the honourable senator.

**Senator Fraser:** You said you looked at earlier years' budgets. What did you glean from them?

**Ms. Ouimet:** I gleaned that it was a very small office that was beginning a mandate. There were a couple of million dollars available, if I recall correctly. There was a proposal to double in size. I do not know the exact number, I apologize.

**Senator Fraser:** Perhaps when you are aware of that, you could send us a note to keep us informed.

My last question: Do you expect your major expense for this operation to be staffing costs, or are you planning to hire many outside lawyers in addition?

**Ms. Ouimet:** I would presume the major expense would be permanent staff. Most of the resources would go to hiring human capacity.

• (2040)

**Senator Nancy Ruth:** During our discussions on Bill C-2 there was a lot of talk that there might be a chill on the civil service if there were whistle-blowers and a commissioner, et cetera.

You have worked through a lot of departments. You must have many contacts. Do you have the sense that your appointment will give a sense of relief to the civil service, as opposed to a chill?

**Ms. Ouimet:** Madam Chair, I truly believe that the whole of the public sector welcomes the legislation if it is well administered and if it is addressed in a neutral fashion with respect to some of the issues that have been raised today.

I fully expect, knowing the public sector as a whole, that there will be full cooperation with respect to wrongdoing, if and when it is identified. As well, it will serve a useful purpose, not only from an enforcement perspective, but from a prevention perspective, and to ensure that there is good communications. I think this function sends an important signal of transparency and accountability, of having a system that may not be used on a daily basis, but it is available and prepared to react and to respond to concerns.

In the end, while there may be some initial anxiety, it will be welcomed and seen as a useful institution; at least that is my hope, Madam Chair.

**Senator Nancy Ruth:** It sounds like you figure that setting a climate is an important thing you need to do.

When I hire people in my businesses I always ask them, if they had a magic wand, what would they like to change, do or make happen? If you had a magic wand, what would you like to leave when you leave this job? What will have happened? How will Canada be different in the public service?

**Ms. Ouimet:** Madam Chair, if I had a magic wand I would want the institution and the role of the commissioner to be seen — not only be, but be seen — as having done justice, having been accessible, and having done the right thing.

By that I mean that it would be seen as an institution that has legitimately and fairly protected the interests of Canadians and the public sector.

**Senator Nancy Ruth:** Does that mean you will try to hire staff who have a natural inclination towards fairness and justice?

**Ms. Ouimet:** Madam Chair, I think it is important that whoever joins the small office shares the same values but at the end of the day, be guided by the legislation. This office has a legislative mandate and will report directly to Parliament. I think every officer of that office will have that same duty to report to Parliament through the commissioner.

**Senator Kinsella:** Given that the model of this whistle-blowing legislation is a complaint-based process, would you comment on your views as to how important it is or will be that the manner in which the whistle-blowers are protected from retaliation or reprisal, particularly in the early days of the mandate?

**Ms. Ouimet:** Madam Chair, I think the whole purpose of the legislation is to reassure, first, even Canadians who are not part of the public sector, that they can come forward and they can disclose wrongdoing and that they are absolutely protected from the fear of reappraisal.

Some of the role of the tribunal, and this is set out as well in one of the first functions of the commissioner, I do not have the exact language, is to give information and educate with respect to what the tribunal's function is. One of the clear functions would be education, communication and making sure that the role is well understood.



It may take a little while. It may take a few months because it is brand new legislation, brand new territory. This is the first function in Canada. In fact, as a whole, this legislation may be a first worldwide, as I understand.

In the end, I think the goal is clear with respect to ensuring that whoever comes forward is protected from reprisal.

**Senator Kinsella:** Upon receiving a complaint of apprehended wrongdoing and subsequent to investigation by your office, will there be an attempt to effect a settlement through conciliation with the respondent department? What role do you envisage that you or your office will play to attempt to effect a settlement of the matter complained of?

**Ms. Ouimet:** I am pleased the senator has raised this issue. As I indicated in my opening statement, I am a firm believer of alternative dispute resolution. In fact, way back when I was a young appeal board member, we started what was called disclosure, *divulgarion préliminaire*. We did not have the specific mandate in the legislation, but we always thought that it was extremely critical to ensure, as early as possible in the process, that all the parties come together to share the facts and the explanations. More often than not, we were able to resolve a lot of the issues and bring a solution that first, was more timely, it did not take as much time, but it was to the satisfaction of everyone and was seen to be probably even fairer.

I would use this tool to ensure better communication and quicker resolution of the issues.

**Senator Kinsella:** Madam Chair, I find that reassuring. As the experience of the human rights commission has found to this day, I think in the order of over 90 per cent of the complaints they receive are resolved through conciliation settlement and do not go to adjudication before an administrative tribunal such as a board of inquiry.

As you have been reflecting upon this important role, what are some of the estimates you have allowed to flow through your mind as to the magnitude of the complaint load? A phrase I use to describe this is, How many cases do you think you would see if you compare it to what Dr. Keyserlingk saw under his model?

**Ms. Ouimet:** In the course of a brief discussion with the acting commissioner, he did not anticipate a large number at the outset. The act has been in effect now since April 15, and this is someone who has worked in the area for the last five years. Therefore it is important that we disseminate information with respect to the mandate, what it can do, at all levels of the organization. That would be my first priority. I would find it difficult to speculate at this point in time but definitely the same numbers you have seen in the past. In the end, though, we will deal with every case as diligently as possible, and as effectively and rapidly as possible.

[Translation]

**Senator Fox:** Welcome to the Senate Ms. Ouimet and thank you for spending the evening with us.

I must begin by saying that I am very pleased that we are being given someone with extensive experience in the public service of Canada, roughly 20 years, and in departments that were not all very easy over the years.

[ Ms. Ouimet ]

• (2050)

I want to echo the words of welcome of Senator Segal, who spoke of your background as a student at the University of Ottawa. I was quite surprised to hear him still call it the University of Ottawa instead of Canada's University, which is its new name.

Speaking of Canada's University, I hope that one day you will be able to follow in the footsteps of Ms. Labelle, the university's chancellor, who was also a great public servant. I had the pleasure, in a past life, of having her as a deputy minister and I know how much work she did and the success she achieved within the public service. To me, this is truly an example for us all, men and women, francophone or anglophone, whatever our political stripe.

I have two questions and one suggestion and I hope that in your first report you will come back to us with a suggestion for a more elegant way of describing what you do. I see that this function is described as "public servants disclosure protection"; I find that a bit cumbersome and I hope that over the years we will come up with something more elegant.

In speaking of your role, I would tend to think, and I would like to have your reaction to this idea, that your success will be measured, I believe, not by the number of whistle-blowers who come forward, as there will definitely be some, but rather by the type of climate — and I hope that is part of your role — that you will be able to establish within the public service. The public service should be a place where — and you have spoken about alternative methods of conflict resolution — there will no longer be the need to write these letters that will be placed in brown envelopes, in your case, with return addresses.

At first there will certainly be some; however, over the years, I hope that your success will be indicated by reports that will point to complete success where, in a given year, there will be no whistle-blowers and we will no longer need a commissioner for that purpose.

**Ms. Ouimet:** You have very eloquently expressed one of my hopes. That was also the approach I advocated when I worked at Customs, where we spoke not only of enforcement of the law but also of compliance, which we hoped would encourage individuals to observe the requirements of the law without the threat of a big stick. There will be interesting challenges in the first months with respect to education, communication, and co-operation in order to ensure that there is a good understanding of the mandate.

I agree completely that we must not measure the success of an organization such as this one by the number of interventions but rather by how well differences are resolved and by the fact that everyone views this institution as being approachable and representing democracy in Canada.

**Senator Fox:** Thank you.

[English]

**Senator Fairbairn:** Congratulations on what will undoubtedly be a very dynamite-charged future ahead of you. You are being given a huge responsibility, one that might cause some Canadians to feel somewhat anxious. Once you get the group of people who

are working with you, how open will your workplace be in terms of public knowledge of what you are doing? Will the people who will be assisting come exclusively through the public service, or, with your own background and the things that you have done, could you have the opportunity of looking also into the private sector?

**Ms. Ouimet:** With respect to the first comment of whether the office would be open to people coming to it, I think I would like the office to reach out and, in fact, go to other organizations and provide the information very informally but in a very accessible way. My first step would be to look at an education, training and communications program. We will go to the public sector to share that knowledge.

The second point is that the employees are appointed under the Public Service Employment Act, which is a tool for recruitment, but that tool can be used both to recruit from within the public sector and outside. Depending on the specific people that we would require, and I do not know the exact mix of skills that we have presently, I have already indicated to the executive director, who was very open to it, that I would look at our capacity and our mix of talent. If I need to go outside through the process that I am allowed to use, I would not hesitate to do so.

**Senator Fairbairn:** In your dealing with the government, not the political end of the government but the public service end of government, will you have any connecting links with the Clerk of the Privy Council Office and its operation, which is very significant within the hierarchy of our governance?

**Ms. Ouimet:** The question is twofold. On the one hand, as an agent of Parliament, I will report to Parliament, and I am no longer within the community of deputies, as I am currently. Certainly, there is that arm's length relationship with respect to specific cases and, of course, through the reporting. By the same token, through education, training and communications, I will reach out to all levels of the public sector. I will make sure, just like the Auditor General does, that there is that good exchange, not only when there is a problem but also in anticipation of issues that may be raised. That would include the Clerk of the Privy Council Office.

**Senator Fairbairn:** We are in a difficult situation right now in Canada, working on the kinds of difficulties that have been coming out in parliamentary discussions on the Royal Canadian Mounted Police. Will you have a linkage to that level of integrity and concern with your operation?

**Ms. Ouimet:** Without commenting on the specific situation, I would simply offer the following comment: The act covers members of the RCMP. There are specific exclusions with respect to various aspects, but I have not really focused on how they would be used. The act certainly covers the whole of the public sector, with a few national security exceptions and the Armed Forces. I would definitely entertain whatever would fall within the mandate of the office.

**Senator Fairbairn:** Would you also — and the answer will probably be yes — be in a position, as other entities in this kind of world are, to appear before parliamentary committees on perhaps an annual basis as your position and the work you do gets rolling along? Would that be part of your openness with the general public through the parliamentary committee?

• (2100)

**Ms. Ouimet:** Madam Chair, I understand this is part of the duties and responsibilities of the commissioner.

**Senator Fairbairn:** Thank you very much and good luck.

[Translation]

**Senator Comeau:** Welcome to the Senate, Ms. Ouimet. It is a pleasure to have you here. I have a few short questions to ask you. You are responsible for protecting whistle-blowers. It is not always easy to protect the identity of whistle-blowers. There is currently a bill before the Senate proposing that audit working papers from the Commissioner of Official Language and the Auditor General be made public. This means that if someone comes forward with a concern about official languages or finances, at the end of the audit, the employer could find out who lodged the complaint. People could hesitate to file a complaint for fear of retaliation.

If you had to comment on this private member's bill, what would you say about making working papers public at the end of the audit?

**Ms. Ouimet:** If I may, Madam Chair, I would like to focus on the existing legislation, because it is a bit difficult for me in my position to comment on policies or bills. However, I would like to reassure the senator that I am entirely comfortable operating within the parameters of the Public Servants Disclosure Protection Act — I will try to come up with a shorter title, as was previously suggested — where disclosures are protected.

In the context of the legislation, I am entirely comfortable with the kind of protection available under the responsibility of the commissioner.

**Senator Comeau:** If this bill were now in force in Canada, you would probably be exempt because, as Integrity Commissioner, you are not included in the proposed legislation. So perhaps those with official languages concerns would prefer to go and see you to divulge information about employers who fail to comply with the Official Languages Act. Would you be available to meet with such people or would you direct them to the Official Languages Commissioner?

**Ms. Ouimet:** Madam Chair, it is true that there are some exclusions with respect to access to information. I took note of them as I read through the act. I would have to act according to the parameters set out in the legislation that I administer. Any request, regardless of its origin — serious breaches of a law, serious mismanagement, security breaches, et cetera — must comply with very specific parameters. I would act according to the legislation and my mandate, disregarding other avenues. If there was a specific mandate that belonged to another organization, I think it would be my duty to take it into consideration.

[English]

**Senator Andreychuk:** The Human Rights Committee in the Senate has studied the employment equity issue. Four target groups are underrepresented as Canadians in the Public Service



Commission. You will be at the other end investigating the operations and the complaints. How will you factor in the cultural differences of Canadians within those groups? As we discovered, part of the problem was the existing culture. We do not need extra laws, but we need to implement different attitudes toward the varying groups of Canadians that may come before the Public Service Commission. How will you factor that into your position?

**Ms. Ouimet:** Throughout my career and even more so in the last 10 years, I have been heavily involved in employment equity issues. At Agriculture and Agri-Food Canada, I was the chair of a group that dealt with what were called inclusive management issues. I have also worked with Aboriginal people. These are issues that I think are very important in any organization. However, I will have to go back to the legislative parameters of the role of the commissioner. If issues that I bring forward are pertinent as evidence, as facts, again within the specific parameters of the provisions that I will have to administer, then they will be relevant. This will be done following due process.

[Translation]

**Senator Nolin:** Good evening, Ms. Ouimet. I also studied at the University of Ottawa. We are being asked to ratify your appointment, so allow me to ask a few incisive questions. Please forgive me if I should happen to offend you.

First of all, why did you accept this position? You are a young woman in the prime of your life, and you do not seem to me to be anywhere near the end of your career in Canada's public service. Do you think of this as your last job with the public service?

**Ms. Ouimet:** Madam Chair, when I was approached about this position, I was a little surprised. I asked for some time to think about it. I thought about it for 48 hours, and I decided to accept it. I carefully considered the magnitude of the task, the significance of the mandate, and the fact that this is a first for Canada. In all sincerity, I feel that it is an honour to have the confidence of Parliament, and I feel privileged to have been considered for this job. I assure you that I will do it with enthusiasm, devotion and the professionalism that I have developed over the years.

**Senator Nolin:** Without going into too much detail, and I understand why you might hesitate to talk about it, you would be responsible for the RCMP. The minister responsible appointed an investigator to look into what was going on within the RCMP. He concluded that a change is needed within the culture of that police force, which is the pride of all Canadians.

With all the passion you have shown us this evening, and all your enthusiasm after taking 48 hours to decide whether to take this on, how do you think you might be able to change the culture of the RCMP?

**Ms. Ouimet:** First of all, I have no illusions about this. It is indeed a very difficult mandate.

In the course of my career, I have had to perform duties and make decisions that were not always easy, whether in a quasi-legal context or in examining fraud files, or in the context of problems concerning Aboriginal police forces.

• (2110)

There was quite a stir following 9/11, when I was at the Refugee Board. We had some serious challenges to overcome. Some were a matter of life and death. We were making decisions affecting people who could have been returned to their countries and tortured or even killed.

I do not take such things lightly. I would like to assure the Senate that I would not hesitate to exercise the full powers entrusted to the Commissioner. Certain powers under the Inquiries Act could be considered rather coercive. I would also not hesitate to make the necessary decisions, but it is important that these decisions be justified and that the evidence be very clear, because the right of oversight will exist and the decisions can always be re-examined by the courts.

In the end, you will judge my mandate and how I carry it out. I will leave you with that promise.

**Senator Nolin:** Thank you very much, Ms. Ouimet. I wish you good luck.

**Senator Corbin:** Madam Chair, I would like to start by taking Ms. Ouimet to task. She told us that she was born on a dairy farm; however, she neglected to tell us about the famous and delicious Saint-Albert cheese. What a golden opportunity to promote it!

**Ms. Ouimet:** It is true, I confess!

**Senator Corbin:** I am not really being serious. However, I would like to know what you think about the challenge posed by the vastness of this country. Would you establish satellite offices in the regions of Canada? Do you intend to travel to the regions from time to time?

You are aware that public servants in the regions do not think like the multitude of Ottawa officials. They have particular needs and grievances. Relations with their local superiors are quite different than those in Ottawa. How will you address this challenge, which is very real in a large country such as Canada?

**Ms. Ouimet:** I must tell you that at least seven times in my career I have had the pleasure of managing regional offices of varying sizes and with different mandates. It is very important to go on site, to communicate and to understand the culture because there are regional cultures that are very rich. I have always enjoyed that aspect.

I think that in the context of the mandate that may be conferred on me, I definitely see that this task must not be carried out in a vacuum. I have already spoken about a communication program and it would be with great pleasure that I would travel throughout Canada as appropriate because there is definitely work to be done. And if need be, I would report to Parliament on the needs of regional offices. But at this stage I am not really sure if that is required. However, I believe that the commissioner's mandate is to ensure that the information is available all across the country and that we are open and available.

**Senator Corbin:** There will undoubtedly be a need to change mentalities and to provide education about your responsibilities. I believe it is imperative that you travel to these regions as soon as you take up your responsibilities so that there is a better understanding of your mandate, its potential and its limits.

**Ms. Ouimet:** Duly noted, Madam Chair.

**Senator Joyal:** Welcome Ms. Ouimet. My first question is on the presentation of your biographical notes, your profile. I see that on the bottom of page 2 — and you referred to this in your last response — you propose very sensitive tripartite agreement negotiations for Aboriginal police services in First Nations communities throughout Canada, for Mohawks in Oka in particular.

Were you the one who negotiated the agreement with James Gabriel that caused difficulties and confrontations later and the difficulties that followed with the police forces that had to intervene on the reserves in the Montreal area?

**Ms. Ouimet:** I did indeed have direct meetings with James Gabriel and I took part in the negotiation of that agreement. At the time, it was seen as a great success where we restored safety in the community. And I was there when the first police station opened in Kanesatake.

**Senator Joyal:** An inquiry is currently underway on how the money was made available by the Canadian government following the negotiations in which you were involved. The purpose of this inquiry is to determine the nature of the mandate given to the police forces and how the use of the money allocated for the implementation of the police services should have been audited.

**Ms. Ouimet:** It goes without saying that every agreement included audits. Following the policy that had been approved, there was also an entire evaluation system, but this goes back a few years. I was not involved in that inquiry. No one came to see me, but if ever they did, I would be quite willing and ready to share the information that was available at the time.

**Senator Joyal:** In a way, you have answered my question directly. The Minister of Public Safety called an inquiry into the use of money in a context that raises doubts on its destination. I wanted to know whether you had been contacted, since you were one of the people involved in the negotiation, in the definition of the mandate and the scope of the responsibilities that were vested in the police and the way in which they were supposed to use and account for the money allocated to them under the agreement.

**Ms. Ouimet:** Nobody approached me at that point. I was in charge of the program, but I had negotiators who were negotiating the framework of the agreement that was signed in accordance with the existing parameters.

**Senator Joyal:** Do you know whether there were conditions attached to the use of the funds transferred to aboriginal police forces?

**Ms. Ouimet:** I do not remember the provisions of the agreement exactly, but in short, every agreement had its terms and conditions and requirements for assessment. There was an accountability factor in every agreement that was signed. There were more than 125 of them across Canada when I left the program.

**Senator Joyal:** Are you saying that conditions pertaining to reporting and accountability were attached to the use of the funds transferred to the police?

**Ms. Ouimet:** Let me address that in terms of the agreements as a whole. Each one had specific measures relating to the use of funds. That was part of the policy governing all tripartite agreements.

**Senator Joyal:** Thank you. I would now like to refer you to subsection 25.1, paragraph 4 of the Public Servants Disclosure Protection Act.

**Ms. Ouimet:** Which paragraph?

**Senator Joyal:** There are nine paragraphs, and I would draw your attention to paragraph 4, which states that the maximum amount that may be paid to any particular public servant is \$1,500.

• (2120)

I will read the subparagraph for my colleagues:

The maximum amount that may be paid by the Commissioner under this section for legal advice provided or to be provided to any particular public servant or person in relation to any particular act or omission that may constitute a wrongdoing or reprisal is \$1,500.

You are a lawyer and you will agree with me that \$1,500 does not buy a lot of legal advice from a lawyer.

Since you are the one who has to make legal advice available to the particular public servant or person, you have the responsibility of determining what legal services are needed. I do not know whether you intend to hire within the private sector or have a legal unit set up in your office, but, to me, \$1,500 seems well below what it would cost in the private sector to retain the services of a law firm.

How do you think you will manage to implement the legislation in this area, with such a small sum, in order to help a complainant prepare his or her case? Since this can go before the court, there will be a legal proceeding that can contradict what the complainant puts forward. How do you think a public servant could defend himself if you give him a maximum amount of \$1,500?

**Ms. Ouimet:** Madam Chair, that is an excellent question. I would also like to draw the senator's attention to paragraph 6, where it mentions that if the Commissioner is of the opinion that there are exceptional circumstances, the maximum amount provided for is deemed to be \$3,000. Therefore there is some latitude. I agree, however, that this is not a lot of money when we consider the going rates.

However, I hope that we could draft a list of experts and I am talking here about support for disclosure, not reprisals. The court also has some latitude for reimbursing expenses. It is important to make these distinctions.

As far as disclosing wrongdoings is concerned, and the amount of \$1,500 to \$3,000, I think it will be incumbent upon the commissioner to provide support, share precedents and ensure that certified experts who know the system and who can guide the discloser are available.



**Senator Joyal:** I agree with you completely. Your approach, which involves drawing up a list of consultants, is completely reasonable. You know as well as I do, however, that drawing on a list of consultants is more expensive than using the services of lawyers who practice general law. It is like going to see a specialist instead of your family physician. Consultation is even more costly when we turn to people who have more specialized expertise.

I understand that procedures might be more straightforward in the case of a wrongdoing. But, in cases involving reprisals, it seems to me that the evidence can sometimes be much more difficult to present and prepare.

Accordingly, because you have even more experience in the public service than we do, since this has been your bread and butter for a number of years, the sum of \$1,500 seems almost ridiculous in relation to what we hope to achieve, which is to truly protect the whistle-blower, or the public servant who is victimized after making a disclosure, because the two statutes are complimentary to some extent.

**Ms. Ouimet:** Madam Chair, I am prepared to act in accordance with the law and, if needed, submit a report on the relevance of the amount. Thank you, it is duly noted.

**Senator Joyal:** Do I have enough time to pose another question, Madam Chair?

**The Chair:** You have one minute.

**Senator Joyal:** In the same piece of legislation, paragraph 21.7(1)f) has to do with compensation that can be paid to a complainant. If I may, I would like to read this portion of the legislation:

[English]

Compensate the complainant by an amount of not more than \$10,000, for any pain and suffering that the complainant experienced as a result of the reprisal.

[Translation]

An amount of not more than \$10,000 — based on contemporary jurisprudence and amounts awarded by courts or adjudicators, in the case of collective agreements, for pain and suffering including psychological stress or the stress associated with a process of this nature — poses a problem for me.

Once again, does this not seem like such a modest amount that, in practice, it could discourage an individual from initiating a process where it is often difficult to predict the outcome, the duration and the context in which it will unfold, as well as what will happen to the individual's career?

**Ms. Ouimet:** Madam Chair, in the event of reprisals, it will be up to the court to determine the amount. I believe we need to have a bit more experience with the legislation and to see how it is applied. Again, this could be dealt with in the next annual report.

**Senator Joyal:** Thank you for your answer; that is what I thought you would say. I would simply like to draw your attention to subsection 21.6(2), namely that as Commissioner, you have a position before the tribunal, and I quote:

[English]

The Commissioner must, in proceedings before the tribunal, adopt the position that, in his or her opinion, it is in the public interest having regard to the nature of the complaint.

[Translation]

You have intervener status with the court, and you can certainly tell the court what you think it should consider when deciding on the amount of compensation. But nothing in the act prevents you from making representations to the court. Obviously, your representations would seem to be quite limited given the conclusions of the investigation you yourself could have conducted and the nature of the injury to the person in the context of the reprisals they experienced.

**Ms. Ouimet:** Madam Chair, I would like to assure the committee that, as Commissioner, it will be my duty to support the court, to provide all the evidence and to make any relevant comments. I will not hesitate to do so.

**Senator Joyal:** Thank you, Madam Chair.

[English]

**Senator Banks:** Welcome, Ms. Ouimet, and thank you for your time here. All senators here will very much appreciate your courtesies. However, for the next time you come to visit us, you will have noticed that in this place we have rather less formal habits than in other places and we speak directly to each other rather than through anyone else.

When you mentioned that you would have a very small office with a budget of \$2 million, some ears perked up here, because that is 13 times the budget of any senator's office. When you next come to visit us, perhaps saying "just a little office with a \$2 million budget" would not be a good place to start.

This is the last question. A few years ago we were sitting here asking questions of a person who was nominated for a position similar to yours. We were intrigued in that case, as we are in yours, by your qualifications and your presentation to us. We neglected, however, to ask some particular questions at the time, one of which would have been, if we had adduced the answer we wanted: Are you presently undergoing a process of personal bankruptcy? In that particular case, the answer would have been: Yes, I am.

In the interests of full disclosure, is there anything you have not yet been asked that you think would be in the public interest for us to know about you?

• (2130)

**Ms. Ouimet:** There is no issue, no matter that I am aware of that should be brought forward with respect to the way that I have discharged my responsibilities as a public servant so far.

**Senator Banks:** Thank you.

[Translation]

**The Chairman:** Thank you, Ms. Ouimet. As I am sure you surmised from their many questions, the senators are very interested in this matter.

I wish you good luck and a fair and honest magic wand.

**Ms. Ouimet:** Thank you, Madam Chair.

**Senator Comeau:** Honourable senators, I think we all agree that the Committee of the Whole has completed its deliberations.

**The Chairman:** Honourable senators, is it agreed?

**Hon. Senators:** Agreed.

The sitting was resumed.

**The Hon. the Speaker:** Honourable senators, the sitting of the Senate is resumed.

#### REPORT OF COMMITTEE OF THE WHOLE

**Hon. Rose-Marie Losier-Cool:** Honourable senators, the Committee of the Whole, which has received Ms. Christiane Ouimet, has asked me to report that the committee has concluded its deliberations.

[English]

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Would honourable senators be agreeable to revert to motion number 2, which deals with this subject matter?

**The Hon. the Speaker:** Is that agreed, honourable senators?

**Hon. Senators:** Agreed.

**Senator Comeau:** Honourable senators, I move:

That in accordance with Section 39 of the *Public Servants Disclosure Protection Act*, Chapter 46 of the Statutes of Canada, 2005, the Senate approve the appointment of Christiane Ouimet as Public Sector Integrity Commissioner.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I am pleased to rise today to speak briefly in support of the motion to approve the nominee, Christiane Ouimet, for the position of Public Sector Integrity Commissioner.

With the coming into force of the Public Servants Disclosure Protection Act on April 15, 2007, Canada now has a legislated process to protect from reprisals public servants and Canadians who make disclosures of wrongdoing in the public sector.

As an agent of Parliament, the Public Sector Integrity Commissioner is responsible for the administration of the Public Servants Disclosure Protection Act.

The commissioner will conduct independent reviews of disclosures of wrongdoing in an equitable and timely manner, issue reports of findings to enable organizations to take appropriate remedial action and submit annual and special reports to Parliament.

In support of public servants, Parliament and Canadians, the Public Sector Integrity Commissioner will play a vital role in ensuring the protection of those who have been witnesses to wrongdoing so that they are able to come forward without fear of reprisal. This position requires an individual who has demonstrated the highest ethical standards, sound judgment, objectivity, fairness and leadership.

Like all agents of Parliament, the incumbent requires the trust of both Parliament and the Canadian people.

A senior public servant, Christiane Ouimet has gained a unique combination of skills and experiences over the course of her career, making her an ideal candidate for this position. In her introductory remarks tonight, she apprised honourable senators of her impressive resumé. I must say, having been born and raised on a dairy farm in Eastern Ontario, I was particularly impressed with that part of her resumé and the obvious love she has for her family and her parents — and they must be very proud of her.

A graduate of the University of Ottawa, with an Honour's Degree in French Letters, as well as two Bachelor of Law degrees, one in civil law and one in criminal law, and from her present position of Associate Deputy Minister of Agriculture and Agri-foods, and a former Deputy Minister of Public Works and Government Services, she brings a wealth of experience to this position.

A lawyer by training, Ms. Ouimet has a strong quasi-judicial background, having conducted inquiries into the appointment and release of public servants while serving with the Appeal Board of the Public Service Commission. As well, her support of the largest administrative tribunal in Canada, the Immigration and Refugee Board, as the board's executive director, her strong negotiation and interpersonal skills in her capacity as Assistant Deputy Solicitor General, Corrections and Aboriginal Policing with the Department of the Solicitor General, and as the first Director of the Enforcement Operations Section of Revenue Canada, which included commercial fraud investigations, have all provided an in-depth understanding of the structure and the organization of government.

Obviously, honourable senators, she is well prepared to lead the full implementation of both the Office of the Public Sector Integrity Commissioner and the new regime for the protection of whistle-blowers.

Honourable senators, Ms. Ouimet's unique background and her strong commitment to serve in the public interest will bring to the position the requisite skills, knowledge and experience to fulfill the role of Public Sector Integrity Commissioner with credibility, professionalism and distinction.

With this in mind, I urge all honourable senators to support this motion that the Senate approve the appointment of Christiane Ouimet as Public Sector Integrity Commissioner.

**Hon. Senators:** Hear, hear!



**Hon. Serge Joyal:** Honourable senators, I am pleased to join Senator LeBreton to support the nomination of Ms. Ouimet. I will just add a few words. As we have heard from Ms. Ouimet, she is fluently bilingual. Any public servant who wishes to address Ms. Ouimet will be able to address her in his or her language of choice — something that must be underlined. Ms. Ouimet's fluent bilingualism was not mentioned in our deliberations tonight, but it was quite obvious.

The honourable government leader will know that there have been criticisms in the past weeks about appointments whereby some persons, very qualified on other aspects, could not really provide their service in both languages. Ms. Ouimet is a stellar example of someone who will be able to discharge her function with a high degree of competence. Besides that, she is a woman, and it is very important that in that capacity at the highest level

we support women when there is an opportunity. There was a question about equity in the public service from Senator Andreychuk, and the government must be commended for that nomination. I support the nomination.

*[Translation]*

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Wednesday, June 20, 2007, at 1:30 p.m.

---

## CONTENTS

Tuesday, June 19, 2007

	PAGE		PAGE
<b>SENATORS' STATEMENTS</b>			
<b>The Honourable Larry W. Campbell</b>		<b>Canada-United States Relations</b>	
Quotation of the Honourable A. Raynell Andreychuk in <i>The Hill Times</i> —Request for Apology.		Devils Lake, North Dakota—Effect of Flood Control System on Manitoba.	
Hon. A. Raynell Andreychuk . . . . .	2755	Hon. Tommy Banks . . . . .	2761
		Hon. Marjory LeBreton . . . . .	2761
<b>Library and Archives Canada</b>		<b>Delayed Answers to Oral Questions</b>	
Census Records and Genealogical Information.		Hon. Gerald J. Comeau . . . . .	2761
Hon. Lorna Milne . . . . .	2755	<b>Official Languages</b>	
<b>The Environment</b>		Report of Commissioner—	
Kyoto Protocol—Efforts of Canadian Manufacturers Regarding Greenhouse Gas Emissions.		Recommendation to Create Ministerial Portfolio. Question by Senator Rivest.	
Hon. Mira Spivak . . . . .	2756	Hon. Gerald J. Comeau (Delayed Answer) . . . . .	2761
<b>Canada-United States Relations</b>		<b>Agriculture and Agri-Food</b>	
Efforts to Moderate Western Hemisphere Travel Initiative.		Canadian Food Inspection Agency—Safety of Imports. Question by Senator Milne.	
Hon. Jerahmiel S. Grafstein . . . . .	2756	Hon. Gerald J. Comeau (Delayed Answer) . . . . .	2761
<b>Visitors in the Gallery</b>		Canadian Food Inspection Agency—Safety of Imports. Question by Senator Segal.	
The Hon. the Speaker. . . . .	2756	Hon. Gerald J. Comeau (Delayed Answer) . . . . .	2761
<hr/>			
<b>ROUTINE PROCEEDINGS</b>			
<b>Ethics Commissioner</b>		<b>Constitution Act, 1867</b>	
2006-07 Annual Report Tabled.		Bill to Amend—Report of Committee—Document Tabled.	
The Hon. the Speaker. . . . .	2757	Hon. Donald H. Oliver. . . . .	2762
<hr/>			
<b>Aboriginal Peoples</b>		<b>ORDERS OF THE DAY</b>	
Budget—Study on Recent Reports and Action Plan Concerning Drinking Water in First Nations Communities— Report of Committee Presented.		<b>Canada Elections Act</b>	
Hon. Gerry St. Germain . . . . .	2757	<b>Public Service Employment Act (Bill C-31)</b>	
<hr/>			
<b>QUESTION PERIOD</b>		Bill to Amend—Message from Commons—Disagreement with Senate Amendment—Motion to Concur Adopted.	
<b>Transport</b>		Hon. Pierre Claude Nolin . . . . .	2763
Passenger Protect Program.		Hon. Serge Joyal . . . . .	2763
Hon. Céline Hervieux-Payette . . . . .	2757	Hon. Lorna Milne . . . . .	2764
Hon. Marjory LeBreton . . . . .	2757	<b>Bill to Amend Certain Acts in Relation to DNA Identification (Bill C-18)</b>	
<b>Heritage</b>		Third Reading.	
Canadian Culture Property Export Review Board— Bell of <i>Empress of Ireland</i> .		Hon. Marilyn Trenholme Counsell. . . . .	2764
Hon. Lorna Milne . . . . .	2758	<b>Olympic and Paralympic Marks Bill (Bill C-47)</b>	
Hon. Marjory LeBreton . . . . .	2758	Second Reading.	
<b>Finance</b>		Hon. Larry W. Campbell . . . . .	2765
Equalization Payments—		Referred to Committee . . . . .	2765
Atlantic Provinces Economic Council Report.		<b>Citizenship Act (Bill C-14)</b>	
Hon. Catherine S. Callbeck. . . . .	2759	Bill to Amend—Second Reading.	
Hon. Marjory LeBreton . . . . .	2759	Hon. Mac Harb . . . . .	2766
Hon. Percy Downe. . . . .	2760	Referred to Committee . . . . .	2767
<b>Heritage</b>		<b>Criminal Code (Bill C-22)</b>	
Canadian Culture Export Review Board— Artifacts of <i>Empress of Ireland</i> .		Bill to Amend—Second Reading—Debate Continued.	
Hon. Tommy Banks . . . . .	2760	Hon. Serge Joyal . . . . .	2767
Hon. Marjory LeBreton . . . . .	2760	Hon. Hugh Segal . . . . .	2769
Hon. Hugh Segal . . . . .	2761	Hon. Jerahmiel S. Grafstein . . . . .	2770
		Hon. Lucie Pépin . . . . .	2770
		Hon. Marilyn Trenholme Counsell. . . . .	2771
		Hon. Anne C. Cools. . . . .	2771
		Hon. Gerald J. Comeau . . . . .	2771



	PAGE
<b>Constitution Act, 1867 (Bill S-4)</b>	
Bill to Amend—Report of Committee Adopted.	
Hon. Lorna Milne . . . . .	2772
Hon. Tommy Banks . . . . .	2773
Hon. Anne C. Cools . . . . .	2773
Hon. Gerald J. Comeau . . . . .	2774
<b>Drinking Water Sources Bill (Bill S-208)</b>	
Second Reading—Debate Continued.	
Hon. Tommy Banks . . . . .	2774
Subject Matter Referred to Committee.	
Hon. Tommy Banks . . . . .	2774
Hon. Jeremiah S. Grafstein . . . . .	2774
<b>Immigration and Refugee Protection Act (Bill C-280)</b>	
Bill to Amend—Second Reading—Debate Continued.	
Hon. Sharon Carstairs . . . . .	2775
<b>Study on Issues Related to National and International Human Rights Obligations</b>	
Motion to Request Government Response on Report of Human Rights Committee Adopted.	
Hon. Eymard G. Corbin . . . . .	2775
Hon. Joan Fraser . . . . .	2776
Hon. David Tkachuk . . . . .	2778
<b>State of Research in Canada</b>	
Inquiry—Debate Suspended.	
Hon. Wilbert J. Keon . . . . .	2778
<b>Business of the Senate . . . . .</b>	<b>2780</b>
<b>Kyoto Protocol Implementation Bill (Bill C-288)</b>	
Third Reading—Motions in Amendment and Subamendment—Debate Continued—Vote Deferred.	
Hon. Hugh Segal . . . . .	2781
Motion in Subamendment.	
Hon. Hugh Segal . . . . .	2782
Hon. David Tkachuk . . . . .	2783

	PAGE
<b>State of Research in Canada</b>	
Inquiry—Debate Adjourned.	
Hon. Wilbert J. Keon . . . . .	2783
<b>National Security and Defence</b>	
Committee Authorized to Extend Date of Final Report on Study of Veterans' Services and Benefits, Commemorative Activities and Charter.	
Hon. Tommy Banks . . . . .	2784
<b>Rules, Procedures and the Rights of Parliament</b>	
Committee Authorized to Extend Date of Final Report on Study of Provisions of Constitution Act, 1867 Relating to Senate.	
Hon. Wilbert J. Keon . . . . .	2784
<b>Business of the Senate . . . . .</b>	<b>2784</b>
<b>Public Sector Integrity Commissioner</b>	
Nomination of Ms. Christiane Ouimet—	
Considered in Committee of the Whole.	
The Chairman . . . . .	2784
Senator Comeau . . . . .	2785
Ms. Christiane Ouimet . . . . .	2785
Senator Hervieux-Payette . . . . .	2786
Senator Segal . . . . .	2787
Senator Tkachuk . . . . .	2788
Senator Fraser . . . . .	2789
Senator Nancy Ruth . . . . .	2789
Senator Kinsella . . . . .	2789
Senator Fox . . . . .	2790
Senator Fairbairn . . . . .	2790
Senator Comeau . . . . .	2791
Senator Andreychuk . . . . .	2791
Senator Corbin . . . . .	2792
Senator Joyal . . . . .	2793
Senator Banks . . . . .	2794
Report of Committee of the Whole.	
Hon. Rose-Marie Losier-Cool . . . . .	2795
Hon. Gerald J. Comeau . . . . .	2795
Hon. Marjory LeBreton . . . . .	2795
Hon. Serge Joyal . . . . .	2796





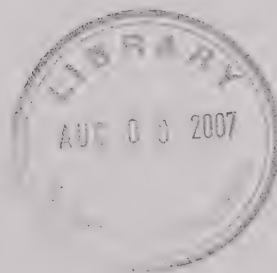


*If undelivered, return COVER ONLY to:*  
Public Works and Government Services Canada  
Publishing and Depository Services  
Ottawa, Ontario K1A 0S5





CANADA



# Debates of the Senate

---

1st SESSION

•

39th PARLIAMENT

•

VOLUME 143

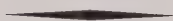
•

NUMBER 111

---

OFFICIAL REPORT  
(HANSARD)

**Wednesday, June 20, 2007**



THE HONOURABLE NOËL A. KINSELLA  
SPEAKER



## CONTENTS

(Daily index of proceedings appears at back of this issue).

## OFFICIAL REPORT

### CORRECTION

**Hon. Hugh Segal:** I rise on a point of order. I have been informed by the table that if I had a correction to make to the *Debates of the Senate* this would be the time to do it. I am referring to page 2737 of the *Debates of the Senate* from Monday, June 18, 2007. I want to do this in a way that pays tribute to the clerks and stenographers who work so hard to get down what people say, specifically when they have to try to figure out what people heckle.

It is embarrassing, Your Honour, to stand in my place and have to correct a heckle, but I do so with total humility and throw myself before this assembly in abject sorrow for what I did. When Senator Keon rose to introduce Bill C-42, concerning the Public Health Agency of Canada, I am quoted as having said "Knock it off." I would never, ever be as disrespectful to my almost seatmate, Senator Keon, or to this very important matter of public health and quarantine by saying "Knock it off."

What I did say, for the record, was "Lock them up." Then I added further on, which is accurately reflected, "Make sure they have no trans fats." Thank you, Mr. Speaker.

## THE SENATE

Wednesday, June 20, 2007

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

[Translation]

### SENATORS' STATEMENTS

#### BUDGET 2007

**Hon. Jean-Claude Rivest:** Honourable senators, we are nearing the end of this session. I will be away for the next two days in order to attend a consultation session with a governmental agency in Quebec City. Given that the government's budget and budgetary policy have been a large and very important focus of the work this session, not only because of the merits of the budget that was tabled, but also because of the concerns voiced in all the Maritime provinces, I hope that the government will be open to our colleagues' concerns about equalization, in Nova Scotia, Saskatchewan and other provinces.

I would like to inform honourable senators that I naturally would have liked to have participated in the budget debate, and that I completely agree with the budgetary policy of the current government.

[English]

#### THE HONOURABLE DANIEL HAYS, P.C.

##### TRIBUTE

**Hon. Grant Mitchell:** Honourable senators, I appreciate the chance to resume tributes to Senator Hays. It was disappointing that I was not able to make the list originally as I wanted to officially state for the record to Senator Hays how much I have appreciated the opportunity to observe his tremendously successful public life and to have been able to work with him during parts of that public life and especially most recently over the last few years in the Senate.

• (1335)

It has been a great privilege for me to watch somebody of his stature, capability and tremendous contribution, not only in the Senate, but also in many phases of what has been a broad, deep and considered public life. I have seen him in his role as President of the Liberal party; as a Liberal in Calgary and Alberta, not an easy thing to be sometimes; as Speaker; as leader; as a senator speaking on behalf of his province in the Senate; and, as a great ambassador for Canada in Alberta, for Alberta in the Senate and for Canada with foreign dignitaries here and abroad. He has distinguished himself in each of those phases of his public life and his political career.

There are many things I could say, almost an infinite number of possibilities. I would like to mention a couple of impressions I have of him. I will long remember the delight that you could see on his face two years ago during the Calgary Stampede when he

hosted a special barbecue for senators and their spouses and for foreign dignitaries at Heritage Park, which was on land that had originally been owned by his family. You could see his delight in representing Calgary, the stampede and Alberta to his colleagues in the Senate. You could feel and see the delight in representing Canada, Calgary and Alberta to foreign dignitaries. I will long remember, as a result of that experience, just what a tremendous ambassador he was for this country, his province and his community.

I will also remember the great dignity, decorum and calm he demonstrated in his role as Speaker, as leader and as a senator, generally, in this house. It reflects clearly the tremendous respect he had for this institution. I will also long remember the intensity, commitment and determination he brought to many policy issues and areas but, in particular, to reforming this Senate, to making it, in his estimation and vision, a more modern and responsive political institution. That, of course, reflected more broadly his tremendous sense of the democratic process and his belief in this institution and in Parliament more generally.

I would also like to recognize the role of Senator Hays's wife Cathy in support of his accomplishments.

Senator Hays' career was a blueprint for a successful and meaningful career in public life, in the Senate and in public debate. The Senate will be poorer without Senator Hays because it has been enriched by his presence.

#### INNOVATION

**Hon. Wilbert J. Keon:** Honourable senators, I want to draw your attention to a report issued recently by the Conference Board of Canada, their first edition of *How Canadians Perform: A Report Card on Canada*. The board's findings are best summed up in one word: "mediocre." Frankly, mediocrity is just not good enough. The Conference Board President and CEO Anne Golden agreed, saying that it is not good enough to "meet the fundamental goal of a high and sustainable quality of life for all Canadians."

The bottom line is Canada's failure to innovate. We rank fourteenth out of the 17 OECD nations due to our poor record in developing and exploiting new products, processes and services, and upgrading the quality of what we do produce.

The only bright light is in the area of education and skills, where the conference board has given us an "A" for the delivery of high quality education to people under the age of 25. Even here, we have problems because we do not produce enough graduates in innovation-related disciplines.

Honourable senators, we need to innovate. It leads to better medicine, communications and just about everything else that one can think of, including the environment, from Research in Motion's ubiquitous BlackBerry to Banting and Best's life-saving insulin.



I am pleased that Prime Minister Stephen Harper released a new S&T strategy, entitled, *Mobilizing Science and Technology to Canada's Advantage*, which will give research a badly needed boost.

In addition, I believe we can learn lessons from abroad if we want to discourage the brain drain.

• (1340)

For example, Japan is once again powering ahead on a new wave of research and development. That nation has consistently been near the top in spending on research and development, especially in corporate R&D, which has led to the commercialization of technology.

The fact is, Japan has made R&D a national priority and the result is an eye-opener for Canadian scientists. The Japanese Science and Technology Advisory Council meets with the prime minister on a monthly basis. I hope that the new Science, Technology and Innovation Council that Prime Minister Harper announced a few weeks ago will have the same clout.

Honourable senators, we in Canada have all the tools we need to reach and surpass the Japanese. We only need to put our minds to it.

### FIRST MINISTERS MEETING

**Hon. Catherine S. Callbeck:** Honourable senators, during the last election campaign, the Prime Minister said that he would

... initiate a new style of open federalism which would involve working more closely and collaboratively with the provinces.

Mr. Harper is setting new standards in his relationship with the provinces, but they are not the standards he promised in the election. He promised a new era of harmony in the federation, but we now have greater disharmony than ever. What we have are discord and conflict between the federal government and the provinces. Right now, Saskatchewan is planning a lawsuit over equalization, while Newfoundland and Labrador and Nova Scotia have seen the Atlantic accord broken in the Conservative government's recent budget.

It has been over 16 months since the Prime Minister took office and he has yet to hold a full, formal meeting of all the premiers of the provinces and territories. The former Prime Minister, the Right Honourable Paul Martin, held first ministers' meetings on January 30, 2004; from September 13 to 16, 2004, on health care; on October 26, 2004, on the equalization and territorial funding formula framework; and from November 24 to 25, 2005, on the Kelowna accord. That is four full and formal first ministers' meetings in less than two years.

Mr. Harper has waited longer than any prime minister since 1921 to have a first ministers' meeting with his provincial and territorial partners. To give a rough average, Canadian prime ministers in the last century typically held a first ministers' conference within about six months of taking office. Mr. Chrétien and Mr. Martin both held conferences within two months of taking office. Mr. Mulroney and Mr. Clark both did so within five months.

There is no excuse for the Prime Minister not to have a first ministers' meeting. They are essential to the effective governing of a mature federation such as Canada. The Prime Minister should remember the commitment he made during the election campaign to work more closely and collaboratively with the provinces and territories. He should honour that commitment and convene a meeting of first ministers as soon as possible.

### NATIONAL SECURITIES REGULATOR

**Hon. Jeremiah S. Grafstein:** Honourable senators, I bring to the Senate's attention a matter of growing urgency, which is the need for a single national securities regulator. Adding to the chorus of support, yesterday in Toronto, the Managing Director of the International Monetary Fund, Rodrigo de Rato, came to the Economic Club in Toronto; and I will quote from an article that I think makes the point. He said:

Your country has had a very good and successful macroeconomic policy agenda in the last 10 to 15 years by many accounts, but the question is the future. Given that Canada is playing in the highest league, you should equip yourself with the best instrument. I think that on financial issues, you still have to provide your customers — your investors and savers of your country — with better tools.

In calling for a single securities regulator, he went on to say:

The design of markets and the flexibility of markets and the competition of markets is a very important element of public policy. Canada is currently the only G7 country without a common securities regulator, and Canada's investors deserve better.

In an interview with *The Globe and Mail*, he said:

Many of your big corporations go elsewhere to finance themselves. It's very clear. If people in Canada go elsewhere to finance themselves, well, you should ask yourself why, and to what extent you're losing opportunities.

The article goes on to talk about the dodgy Wild West image of Canada's capital markets, and states that a single regulator would help clean up the problem.

• (1345)

I urge all honourable senators to read what the managing director of the International Monetary Fund said and get this bill to committee as soon as possible to justify his arguments.

### VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, before calling for tabling of documents, I would like to bring to your attention the presence in the gallery of the Honourable Sylvia Ssinabulya, a distinguished member of the Parliament of Uganda.

Ms. Ssinabulya is in Ottawa to participate in the sixty-third Annual Clinical Meeting of the Society of Obstetricians and Gynecologists of Canada and is the guest of the Honourable Senator Lucie Pépin.

On behalf of all honourable senators, welcome to the Senate of Canada.

**Hon. Senators:** Hear, hear.

## ROUTINE PROCEEDINGS

### OFFICIAL LANGUAGES

#### BUDGET—STUDY ON STATE OF FRANCOPHONE CULTURE IN CANADA— REPORT OF COMMITTEE PRESENTED

**Hon. Wilbert J. Keon**, Acting Deputy Chair of Standing Senate Committee on Official Languages presented the following report:

Wednesday, June 20, 2007

The Standing Senate Committee on Official Languages has the honour to present its

### NINTH REPORT

Your Committee, which was authorized by the Senate on Thursday, May 3, 2007, to study and report on the state of Francophone culture in Canada, particularly in Francophone minority communities, respectfully requests the approval of funds for fiscal year ending March 31, 2008, and requests that it be empowered to engage the services of such counsel, technical, clerical and other personnel as may be necessary and to adjourn from place to place within Canada for the purpose of its study.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

**WILBERT J. KEON**  
*Acting Deputy Chair*

(For text of budget, see today's Journals of the Senate, Appendix A, p. 1789.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Keon, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

### INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

#### EIGHTEENTH REPORT OF COMMITTEE PRESENTED

**Hon. George J. Furey**, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Wednesday, June 20, 2007

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

### EIGHTEENTH REPORT

Your Committee recommends that the Senate adopt the amendments to the *Senate Administrative Rules* attached to this Report as Appendix A.

Respectfully submitted,

**GEORGE J. FUREY**  
*Chair*

(For text of amendments, see today's Journals of the Senate, Appendix B, p. 1795.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Furey, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

### TRANSPORT AND COMMUNICATIONS

#### BUDGET—STUDY ON CONTAINERIZED FREIGHT TRAFFIC—REPORT OF COMMITTEE PRESENTED

**Hon. David Tkachuk**, Deputy Chair of the Standing Senate Committee on Transport and Communications presented the following report:

Wednesday, June 20, 2007

The Standing Senate Committee on Transport and Communications has the honour to present its

### TWELFTH REPORT

Your Committee, which was authorized by the Senate on Thursday, May 11, 2006, to examine and report on containerized freight traffic handled by Canada's ports, respectfully requests the approval of funds for fiscal year 2007-08.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the original budget application submitted was printed in the Journals of the Senate on March 29, 2007. On April 17, 2007, the Senate approved the release of \$141,040 to the Committee.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the supplementary budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

**DAVID TKACHUK**  
*Deputy Chair*

(For text of budget, see today's Journals of the Senate, Appendix C, p. 1805.)



**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Tkachuk, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

• (1350)

## BUSINESS OF THE SENATE

### CONDUCT OF BUSINESS ON FRIDAY, JUNE 22, 2007—NOTICE OF MOTION

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I give notice that at the next sitting of the Senate I shall move:

That, notwithstanding any Rules or usual practices, at 10:00 a.m. on Friday, June 22, 2007, the Speaker shall, upon the request of the Leader of the Government in the Senate and the Leader of the Opposition in the Senate, interrupt any proceedings then before the Senate and proceed to put forthwith and successively, without further debate, amendment, or adjournment, any and all questions necessary to dispose of any bills *seriatim* that then stand on the Orders of the Day for third reading, whether or not motions for third reading of those bills have been moved;

That, in the case of any bill that has not been moved for third reading, the sponsor may move third reading when the bill is called and the question shall then be put without debate but, if the sponsor does not move third reading, the bill shall not fall under the terms of this order;

That no motion to adjourn debate, to adjourn the Senate, or to take up any other item of business shall be received, nor shall any points of order or questions of privilege be taken up until all bills falling under this order have been disposed of;

That all Rules relating to the deferral of votes shall be suspended until all bills falling under this order have been disposed of;

That, if a standing vote is requested, the bells to call in the Senators shall ring only once and for 15 minutes, without the further ringing of the bells in relation to any subsequent standing votes requested under this order; and

That all Rules relating to the time of automatic adjournment of the Senate be suspended for the entire sitting and, when all bills falling under this order have been disposed of, the Senate shall resume business from the point it was interrupted and continue through remaining items on the *Order Paper and Notice Paper* until completed, at which time, if necessary, the Speaker shall suspend the sitting at pleasure, with the bells to ring for 15 minutes prior to resuming the sitting, for the purpose of receiving a message respecting Royal Assent to bills.

## CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

### CO-CHAIRS' MEETING, APRIL 16, 2007— REPORT TABLED

**Hon. Jeremiah S. Grafstein:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation to the Canada-United States Inter-Parliamentary Group's Co-chairs' Meeting held in Washington, D.C. on April 16, 2007.

## CANADA-EUROPE PARLIAMENTARY ASSOCIATION

### ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE PARLIAMENTARY ASSEMBLY, FALL MEETING, NOVEMBER 17-19, 2006—REPORT TABLED

**Hon. Jeremiah S. Grafstein:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation's Fall Meeting to the Organization for Security and Co-operation in Europe Parliamentary Assembly (OSCE PA) held in St. Julians, Malta, from November 17 to 19, 2006.

### ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE PARLIAMENTARY ASSEMBLY, WINTER MEETING, FEBRUARY 22-23, 2007—REPORT TABLED

**Hon. Jeremiah S. Grafstein:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation's Winter Meeting to the Organization for Security and Co-operation in Europe Parliamentary Assembly (OSCE PA) held in Vienna, Austria, from February 22 to 23, 2007.

[Translation]

## INTER-PARLIAMENTARY FORUM OF THE AMERICAS

### EXECUTIVE COMMITTEE MEETING AND SESSION OF GENERAL ASSEMBLY OF ORGANIZATION OF AMERICAN STATES MAY 31 - JUNE 5, 2007— REPORT TABLED

**Hon. Céline Hervieux-Payette (Leader of the Opposition):** Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report from the Canadian Parliamentary Delegation of the Canadian Section of the Inter-Parliamentary Forum of the Americas (IPFA), concerning its participation in the 16th meeting of the Executive Committee of the Inter-Parliamentary Forum of the Americas held in Brasilia, Brazil, from May 31 to June 1, 2007, and in the 37th ordinary session of the General Assembly of the Organization of American States, held in Panama City, Panama, from June 3 to 5, 2007.

• (1355)

[English]

## FISHERIES AND OCEANS

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY ON NEW AND EVOLVING POLICY FRAMEWORK FOR MANAGING FISHERIES AND OCEANS

**Hon. Bill Rompkey:** Honourable senators, I give notice that at the next sitting of the Senate, I will move:

That, notwithstanding the Order of the Senate adopted on Tuesday, May 16, 2006, that the Standing Senate Committee on Fisheries and Oceans authorized to examine and report on issues relating to the federal government's new and evolving policy framework for managing Canada's fisheries and oceans be empowered to extend the date of presenting its final report from June 29, 2007 to June 27, 2008; and

That the Committee retain until August 15, 2008 all powers necessary to publicize its findings.

[Translation]

## QUESTION PERIOD

### AGRICULTURE AND AGRI-FOOD

#### WORLD TRADE ORGANIZATION— SUPPLY MANAGEMENT

**Hon. Céline Hervieux-Payette (Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government in the Senate. It is a well-known fact that the Conservative Party — and even more so the Canadian Alliance, from which the Prime Minister sprang — has never been in favour of supply management. On March 15, the Minister of Agriculture and Agri-Food, Chuck Strahl, said:

It is inconceivable that we would walk away from the WTO so take that as your first gospel truth.

What we find inconceivable is that we are sacrificing the interests of Canadian producers on the altar of right-wing ideology. Supply management is the fairest system of regulating agricultural production and achieving income stability for producers and affordable prices for consumers. It is also the best way of ensuring food self-sufficiency and food security.

Neither Europe nor the United States has chosen the free market as a way of regulating agricultural production. Neither Europe nor the United States has chosen the free market to further their strategic interests. Do we have to put Canadian agriculture out to pasture to satisfy the Conservative ideology?

My question is simple: can the Leader of the Government in the Senate assure us that her government will defend Canadians' interests by supporting supply management in the World Trade

Organization negotiations and assure Canadian farmers that their interests will be protected?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I do not know what particular event has triggered this concern or this question. I have said in this place before and I will say again that the government's support for the supply management system is unwavering. The system has served our dairy producers and processors well in the past. It is our intention to support this system for many years in the future. Nothing that I know of has changed our commitment to supply management.

[Translation]

**Senator Hervieux-Payette:** Since you say that the support of the Conservative Party and the government for supply management is unwavering, how is it that the provincial ministers are worried about this unfounded rumour, as you call it, and how does the government plan to get this message across and tell farmers they have nothing to fear? As our agriculture committee has found, farmers are going through very tough economic times, and it is absolutely imperative to provide them with the security they need.

Will the government state clearly and on the record that it is going to support supply management during the WTO negotiations that are under way?

• (1400)

[English]

**Senator LeBreton:** Again, the honourable senator is making reference to some provincial ministers of agriculture and rumours. On many occasions in this chamber I have responded to rumours. Start a rumour, ask a question — or the other way round. I can only repeat what I have repeated many times in this place — that is, government support of supply management is unwavering. We know how important supply management is, especially to dairy and poultry producers, in particular in Eastern Canada. The government will continue to support the supply management system in future negotiations at the WTO.

## HUMAN RESOURCES AND SOCIAL DEVELOPMENT

### PAY INEQUALITY BETWEEN MEN AND WOMEN

**Hon. Grant Mitchell:** Honourable senators, women in this country earn consistently less money than men earn, even for work of equal value. In fact, the gap is widening for university-educated females. A Statistics Canada report in June reveals that the wage gap between male and female university-educated people has increased from 12 per cent to 18 per cent over recent years. Despite this fact, along with other indications of inequality in pay, this Conservative government continues to cut programs aimed at supporting women in the workforce and fails to make any kind of concerted focused policy effort to deal with inequalities.



Could the Leader of the Government in the Senate please give honourable senators an indication about when the Conservative government will begin to address this inequality in a concerted way and what kind of focused policy initiatives this government will establish?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank Senator Mitchell for the question. Certainly, I was very concerned when I saw the figures with regard to the wage gap. However, the honourable senator and I both know that this condition has developed over a period of time. The government is taking a great number of initiatives in support of women. The so-called "cuts" to Status of Women Canada was not the case at all because the government increased the funding to Status of Women Canada so that services could be directed to women in their communities where they live and work. Unfortunately, in Canada, as in other countries, women who are as educated, experienced and qualified as men are not paid at the same level for a variety of reasons. Of course, that is not the case for women in government or in Parliament, where there is no inequality in pay scales.

However, the issue concerns not only the government but also all Canadians. All employers, large or small corporations, professional or other organizations, should strive to achieve pay equality for employees with the same qualifications.

**Senator Mitchell:** Honourable senators, to be more specific, perhaps Canadians must view pay inequality as a human rights issue that deserves priority consideration by this government. Could the Leader of the Government in the Senate please narrow the focus and give the house a specific answer as to whether this government is considering legislation or a policy initiative to address the issue of pay inequality, in particular unequal pay for equal work in our society?

**Senator LeBreton:** I shall take the honourable senator's question as notice. However, to my knowledge, no government, of any political stripe, has contemplated legislation that would order the population to provide specific salary levels for any one group to promote and enhance the ability to earn a decent living. Therefore, I cannot answer the question but will apprise my colleagues of the honourable senator's great concern in this regard.

• (1405)

## THE ENVIRONMENT

### KYOTO PROTOCOL—MINISTER'S REPORT ON COST OF BILL C-288—REMUNERATION FOR ENDORSEMENTS

**Hon. Lorna Milne:** Honourable senators, on April 19, Minister John Baird appeared before the Standing Senate Committee on Energy, the Environment and Natural Resources to critique Bill C-288, the proposed legislation to ensure that Canada meets its global climate change obligations under the Kyoto Protocol. At this meeting, he produced a report entitled *The Cost of Bill C-288 to Canadian Families and Businesses* that was reviewed and endorsed by Don Drummond, Christopher Green, Mark Jaccard, Carl Sonnen from Informetrica and Jean-Thomas Bernard. It was reported in the *Vancouver Province* and *Montreal Gazette* this morning that Mark Jaccard

was paid for half a day's work when he endorsed this report — not wrote it, just endorsed it. If that was the case, then perhaps \$2,000 was for two hours' work. If that was the case, then perhaps that is what it takes to support this government these days: A payout.

As Mr. Baird put it so plainly on April 19, Canada's not-so-new government was elected to make decisions. I am hoping the Leader of the Government in the Senate can tell honourable senators who made the decision to pay people to endorse their report. How much were Mark Jaccard and the others listed paid to support the conclusions reached in Minister Baird's report?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I thank the senator for the question. I am not aware of the issue about who paid whom. I do not know on what the senator is basing the question. I would like more detail. I really cannot answer the question because I do not know this particular individual, whether he was part of an external think-tank, whether he was contracted by the government for the purposes of reviewing this, or whether he was a contractor from the previous government. I do not know enough about this individual to properly answer the question.

**Senator Milne:** Honourable senators, on a supplementary question, perhaps the minister here will ask Mr. Baird the question, because he surely should know the answer. I also ask that the leader inquire how many taxpayers' dollars were used in total "to endorse the cost of Bill C-288 to Canadian families and businesses" that could have been used on environmental initiatives that would have actually benefited Canadians. Who in Canada's not-so-new government made the decision to pay for endorsements rather than pay for the results?

**Senator LeBreton:** Honourable senators, when we are talking about costs, one could ask how many MRI machines could have been bought by the amount of money that was blown out the back door on the sponsorship scandal, if we wanted to get into that kind of argument.

**Some Hon. Senators:** Oh, oh.

**Senator LeBreton:** The one thing we know about costs when it comes to Kyoto is the tremendous cost to the Canadian public, to Canadian families, to Canadian jobs and to the Canadian economy overall. Those are the costs of Kyoto that we should be concerned about. In terms of the cost of producing a report, I will certainly, as I said earlier, take that question as notice.

**Hon. Hugh Segal:** Honourable senators, on a supplementary question, when the Leader of the Government in the Senate is inquiring on those matters, could she determine how long we have had a policy in the federal government of seeking advice from outside academics and specialists; where that policy began; on what basis they are paid; and whether it is normative, when individuals are paid to give that advice and spend their time analyzing documents that they are then attacked for having done so on an honourable and straightforward basis?

**Senator LeBreton:** Honourable senators, I will certainly ask those questions. The system probably goes back to Sir John A. Macdonald. I will be happy to get that information for the honourable senator as well.

• (1410)

## FINANCE

### NATIONAL SECURITIES REGULATOR

**Hon. Yoine Goldstein:** Honourable senators, this question is for the Leader of the Government.

We are all aware, of course, of the fact that there is a crazy quilt system of securities regulators in this country, one for each province and one for each territory, rendering the entire system inefficient and inappropriate for a country seeking investment and trying to encourage commerce.

There is no question that constitutionally, under the trade and commerce clause, section 91(2) — interpreted, as it was, by the *Parsons* case and the Privy Council to include interprovincial trade and commerce — would permit the federal government to create, maintain, finance and encourage a national securities regulations system. Most of the senators in this chamber, and virtually all commercial enterprises and commercial leaders in the country, support a national securities regulator. There is a bold initiative on the part of Senator Grafstein, for which we should all be grateful, to create, indeed, a national regulator.

Yesterday, Minister Flaherty met with his counterparts. The press reports we have today about that meeting state that he suggested the possibility of a national regulator, only to find himself being opposed by all the provincial and territorial regulators, except perhaps for Ontario.

Does the Finance Minister intend to take a positive position in favour of a single securities regulator, or is he simply picking another fight with the provinces, only to back off, as he backed off with respect to bank charges?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the senator for the question. The Minister of Finance and the government believe strongly that we must modernize our securities regulatory framework. The senator is correct that Mr. Flaherty met with his provincial counterparts yesterday. He has been speaking of this particular issue for some time. He had an opportunity yesterday to meet with the ministers of finance from the provinces and territories. They could not come to an agreement, so at the end of the meeting, Minister Flaherty announced that the government will form a third-party experts group to look into the issues surrounding this important area, with a view to streamlining and harmonizing securities regulations.

Minister Flaherty has asked the provinces to participate in this group and to recommend people they would like to serve on this experts group. Once this group is in place, the minister has asked that they provide an interim report before the end of the year, working with the provinces, with the goal of having a final report before the end of March 2008.

## THE ENVIRONMENT

### KYOTO PROTOCOL—MINISTER'S REPORT ON COST OF BILL C-288—ENDORSEMENTS

**Hon. Tommy Banks:** Honourable senators, I will return to the question that was raised by Senator Milne. The report is a

“Chicken Little” report that says, if we follow Kyoto or come too close to it, we will all be living in caves and eating roots.

Senator Mitchell has shown us that that report is deficient in the sense that it omits to take into account the very things that its authors have said at the end of the report, which is the upside that would result from moving toward Kyoto.

We all understand that it would be bad science to seek out only evidence that supports a theory and to ignore evidence that would work against that theory. That same principle applies, I suggest, in public policy.

The government has relied heavily on that report, and in references to some of its authors lately, most particularly, Mr. Jaccard and Mr. Drummond, but I think it can be said fairly that they have omitted opinions of Mr. Jaccard and Mr. Drummond that can be characterized as their overarching, overriding opinions on the question.

• (1415)

Regardless of who paid them — and I suspect that in this case it would not have been the government — Mr. Jaccard is one of the authors of the recent C.D. Howe report that says that the present government's plan simply falls far short in delivering real reductions in greenhouse gas emissions, which everyone now freely acknowledges have to do with climate change.

To quote Mr. Drummond and some of his colleagues from the TD Economics Special Report:

The conventional view is that there is a trade-off between the economy and the environment.

He then goes on to say:

Most economists, including ourselves, believe that any injury inflicted on Canadian jobs, incomes and competitiveness can be mitigated through reliance upon market-based policies that change the price structure to pollution.

He also says:

Cap-and-trade systems are not easy to implement, but once up-and-running they have proven benefits.

A cap-and-trade system

... aligns the incentives of firms with the objective of reducing GHG emissions.

He continues:

There is already a global push towards trading systems in carbon pricing, and the longer Canadian firms have to become accustomed to the cap-and-trade program the better off they will be. Plus, if technology-adoption is made early, there is a better chance that Canada will be a provider of surplus credits on the global stage.



Would the minister agree that at the very least the opinions of Messrs. Drummond and Jaccard do not entirely support the conclusions of the government's report on the effects of moving towards Kyoto implementation?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for the question. The fact is that we could debate till the cows come home, as they used to say, the various opinions from studies on the impacts of Kyoto. The honourable senator seems to expect our government to take action in a very short period of time, action that was not taken over a longer period of time prior to our coming into office.

The honourable senator has talked about the C.D. Howe Institute. Everyone can quote C.D. Howe and run the latest study up the pole to support one side or the other of the argument, but the fact is that the C.D. Howe Institute has come to these conclusions without even knowing what regulations we are bringing in.

As I have said in this place before, the world has now moved beyond Kyoto. We went to the G8 summit with a practical plan that will achieve reductions in greenhouse gas emissions by 20 per cent by 2020, with real reductions starting by 2010. This is good news. Now the G8 and the world have moved beyond Kyoto. We even had the support of Mr. de Boer of the United Nations, who said — and I paraphrase — that he is satisfied with the steps being taken by the government, because, as I have said before, this is the first government that has actually brought in real plans to deal with greenhouse gas emissions and air pollution.

Do not forget about air pollution, which is of concern to a great number of Canadians. They tend to mix up air pollution and greenhouse gas emissions. This is the first government that actually has a plan to deal with both, and with setting targets and regulations for industries across the board.

**Senator Banks:** Honourable senators, with respect, that was not my question. I am not talking about competing views from different places; I am talking about two people who have been specifically referred to by the government, upon whose opinions they have relied in the production of the report in question.

• (1420)

They are the same people. I am talking about Mr. Jaccard and Mr. Drummond — not someone else or someone else's view. I am only asking whether the government leader will agree that the report, in arriving at its conclusions, does not reflect the entirety or the whole truth of the views of either Mr. Jaccard or Mr. Drummond on the subject.

**Senator LeBreton:** Honourable senators, the fact is that Mr. Drummond put his name to a report that showed that Canada's GDP would decline by 4.2 per cent, which would represent the deepest recession in the country since 1981-82. The report he put his name to also indicates the following: 275,000 Canadians would lose their jobs by 2009; the cost of electricity would jump by 50 per cent; the cost of gasoline would jump by 60 per cent; and the cost of heating a home by natural gas would double. Everyone, including Mr. Drummond, has views that could be quoted, but the fact is he put his name to that report.

I could remind honourable senators of the statements of former environment ministers Christine Stewart and David Anderson, who very clearly said that the previous government talked a lot about the environment but did nothing. We could get into duelling quotes, I suppose, for a very long time.

However, Don Drummond put his name to that report. I was simply saying that the C.D. Howe Institute has come to conclusions, I believe, prematurely, because they have not even waited to see what regulations we are bringing in before drawing conclusions as to what the end result of our plan will be.

**Senator Banks:** Does the minister agree that the report to which Mr. Drummond put his name, and others, also said, near its end, that the report does not and is not able to take into account the upside of moving in this direction but only the downside based upon present projections, that it cannot and did not consider, and they were not asked to, what the mitigating effects might be. If I am not mistaken, that is contained within the same report to which Mr. Drummond attached his name.

**Senator LeBreton:** I thank the senator for the question. Obviously, Mr. Drummond's report, in terms of the impact of Kyoto, was dealing with hard figures. This is what Kyoto would mean now. There is no question, and certainly the government, the Prime Minister and the Minister of the Environment have said many times, that a lot of our advancement on the whole environmental front will be through technology. Technologies will make the difference, ultimately.

I have not seen the exact words of Don Drummond, but in that respect I would offer that we have not been able to look at the upside. We must take into account new technologies and so on. On that front, with regard to Don Drummond's words, I will accept Senator Banks' word that he actually said those things.

[Translation]

## TRANSPORT

### PASSENGER PROTECT PROGRAM—IDENTITY SCREENING REGULATIONS FOR YOUNG PERSONS

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government in the Senate. In a Transport Canada notice published in today's *The Globe and Mail*, we learn that, and I quote:

The . . . new *Identity Screening Regulations* for air travel are now in effect.

In this announcement, under the title "For all persons who appear to be 12 years of age or older", we learn that, from now on, anyone who appears to be 12 years old or older must have government-issued photo ID, or two pieces of ID without photos, in order to board any commercial flight in Canada.

• (1425)

I have a friend in Ottawa who is separated, who has an 11-year-old son going to visit his father this summer in Alberta. Her son is already five feet, five inches tall and looks more like he is at least 15 years old, even though he is really only 11.

Can the Leader of the Government in the Senate please explain the aim of this initiative and describe the criteria that will be used to determine what a 12-year-old child looks like and how a 12 year old can obtain federal government ID?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, people should not always believe everything they read in *The Globe and Mail*.

**Senator Tardif:** I am referring to an announcement.

**Senator LeBreton:** Until September 18, travellers in Canada who are between the ages of 12 and 17 will require only one piece of government-issued identification, with or without a photo, before boarding an aircraft instead of one piece of government-issued photo ID or two pieces of government-based identification. In fact, an individual between the ages of 12 and 17 needs one piece of identification to board the aircraft.

I take the honourable senator's point that some children appear to be between those ages but in fact are actually younger. However, the fact is that these young Canadians will only require one piece of identification.

## ORDERS OF THE DAY

### APPROPRIATION BILL NO. 2, 2007-08

#### THIRD READING

**Hon. Gerald J. Comeau (Deputy Leader of the Government)** moved third reading of Bill C-60, for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2008.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**Senator Corbin:** On division.

Motion agreed to, on division, and bill read third time and passed.

• (1430)

## CRIMINAL CODE

### BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Cochrane, seconded by the Honourable Senator Segal, for the second reading of Bill C-22, to amend the Criminal Code (age of protection) and to make consequential amendments to the Criminal Records Act.

**Hon. Anne C. Cools:** Honourable senators, yesterday I took the adjournment on Bill C-22 in a sincere desire to look at this question and to express an informed opinion based on my examination. I have since learned that it is the will of most senators here to refer this bill to committee and, for that reason, I am prepared to cut short my study and to put a few, though not minor, remarks on the record.

I was touched yesterday, honourable senators, by the interventions of Senator Segal, Senator Joyal and Senator Trenholme Counsell. Senator Trenholme Counsell essentially put before the house the importance of bringing before the committee professionals who are extremely skilled, trained and experienced in these delicate areas of human activity and human relationships.

Honourable senators, I will tell you why I intend to support this bill going to committee. Bill C-22 is a change to the Criminal Code. We can all agree that any change to the Criminal Code is always a significant and important matter. Any amendment to the Criminal Code is always by its nature of being a Criminal Code amendment demanding of, and necessitating, probing and serious study. Criminal Code amendments are serious matters, because the notion is that we should never go to the code unless absolutely necessary.

Honourable senators, in my brief examination of the bill, I observed quickly that the bill is an amendment to Part V of the Criminal Code itself and, if I may read to honourable senators, Part V is entitled "Sexual Offences, Public Morals and Disorderly Conduct." By virtue of the fact that this bill purports to move into that area, it immediately springs to mind the difficulty of the subject matter and of the difficulty of the issues. That alone tells you. I will read it again: "Sexual Offences, Public Morals and Disorderly Conduct." We are in the important area of public morals, which means what is right and wrong; disorderly conduct, which means the conduct the Criminal Code deems to be disorderly; and thirdly, sexual activity. We raise here the phenomenon of human sexuality, and not only human sexual activity but youthful human sexual activity, and the criminal boundaries and the criminal limitations that are or should be imposed on them.

Honourable senators, in my brief remarks, two notions spring to mind. The first is that this bill is about young people, youthful sexual activity and the age of sexual consent. In other words, this bill tackles that difficult and rarely talked about area where young people's sexual impulses are awakened and are seeking gratification. This bill attempts to make a determination therein. I will expand on this because I have done a fair amount of work on this in the past. I intend to follow the bill carefully.

The other area this bill speaks to is the question of the young people's parents and their families and those parents' obligations, duties and rights in respect of protecting those young people. When we isolate those two areas, youthful human sexuality and parents' responsibilities, we begin to see immediately the difficulties that are involved, and that spring to mind. Honourable senators, it takes a high degree of study and care to address these two questions skilfully, adequately and properly.

Honourable senators, the drafting of such Criminal Code amendments would also call into existence what I would describe as remarkable legal skills and a remarkable understanding of the



law and the purpose of the law, and also a remarkable degree of social sensibilities to handle and deliver what is intended. I believe a balance is possible, and I believe these things can be done and should be done. One issue that I want to put out here, as Senator Trenholme Counsell reminded me yesterday, is that we must be mindful of the delicate issues at hand. The interesting thing about young people and parental relationships, of which we must be mindful is that the age and time of life of activating and engaging sexual impulses and activities often coincides with that very time of life when young people, adolescents, seek independence from parents, often in a period of rebellion. Honourable senators, from what I can see, if this bill is to do the job that it purports to do, it would have had to be carefully drafted. When this bill is in committee, I shall read and study it to see if the bill is in point of fact doing what it intends to do.

Honourable senators, I would like to use my few minutes here to say that I strongly believe parents need tools to protect their young people. Advisedly, you can have delinquent parents, but you can have delinquent children as well. Most parents intend well and will do well, but parents must be allowed some ways of entry into this field.

If at all possible, since I am surrendering my opportunity to address this with more detail and more study, I would plead with the house and the chairman of the committee that the committee undertakes to give this matter the time and consideration that it properly requires. This is not a subject matter for a committee to rush through in a week or two. This is an extremely deep and serious subject matter. I would also like, if possible, some undertakings to be made that the proper and qualified witnesses will be called to address these kinds of questions, whether those witnesses are professionals, legal scholars or youth and family workers. I know of what I speak, because I was a youth worker, and I spent a lot of my life working with families, so I understand the delicacy and the sensitivities involved. We are legislating into areas of tremendous sensibility. I cannot emphasize enough the sensitivity not only of this subject matter but also of how sensitive people in these areas, because human sexuality is and of its nature extremely private and intimate.

• (1440)

I am prepared to yield the floor to allow the bill to go on to committee, but I am hoping that the chair or the deputy chair of the committee will undertake to have the committee give this matter the time and care that it needs. I cannot impress upon honourable senators how important this issue is. In other words, the law has to protect not only young people, but also their parents. I have found in my life of working in these areas that there are always solutions. The real challenge is to take the time to find the solutions.

I hope that the deputy chair can assure me that the committee will undertake a serious study and call the witnesses as required. Based on that, I am prepared to yield the floor and have the bill referred to committee.

**Hon. Lorna Milne:** Will the honourable senator accept a question?

**Senator Cools:** Absolutely.

**Senator Milne:** As the deputy chair of the committee, I can assure the honourable senator right off the top that we intend to take a good look at this bill. It is a matter of grave concern. The fact that we might be, through this bill, inadvertently subjecting more young people to criminal histories is a matter that concerns us greatly.

Although the steering committee has not yet met on this matter, we intend to invite witnesses to appear before the committee — and not only the minister, but also youth workers, Aboriginal groups and young people themselves. Both sides of the question need to be thoroughly aired in front of the committee — something I hope the honourable senator is aware of.

**Senator Cools:** I would love to attend before the committee as a witness since I am no longer a member of the committee. I am hoping the committee will invite some of what I would call Canada's legal scholars — the country has a dozen or so great legal scholars — especially the Criminal Code legal scholars, to address this bill. Young people deserve the protection of the Criminal Code. However, so also do parents need the protection of the Criminal Code for their parenting.

I did not realize yesterday that most honourable senators were ready to send the bill off — which is why I have essentially truncated my study.

There are many more sensitive areas. Senator Joyal mentioned the phenomenon of Aboriginal peoples. When I younger, I did a lot of work among Black youth. I submit that minority youth at all levels are also a concern. I did a lot of work in that area.

However, I also know that there is nothing more anguishing than a parent who wants to get to a child being blocked at all times by helpers. Sometimes young people will agree to all manner of things without understanding the consequences. For example, often, young girls who are pregnant find themselves in the situation of being whisked off for an abortion without their parents' knowledge. Parents are a part of their children's lives.

I suggest we surround this very delicate matter because it is a matter of family. Individual relationships come and go, but parents tend to stay.

Therefore, honourable senators, I hope the bill will be well-studied. Some of the members of the committee have had a fair amount of experience to probe the minutiae of this issue.

Looking at the bill last night, I began to see huge defects in its drafting. There is the legal skill of drafting. Then there is the human skill of probing the human problems. Parents are very important in the picture. I would like to say that.

I thank Senator Joyal as always for his insightful comments. Some of the data that the honourable senator put on the record is daunting. He talked about 41 per — nearly 50 per cent — of young people being engaged in full-fledged sexual activity. That is extremely young, too young, but the important phenomenon of this coming before us is that it will give us an opportunity to have a debate.

What is the age that we can all agree on, for example, that young people should be involved in sexual activity? Is it 10 years old? If the age is being pushed back all the time, does it keep

going? Can parents and families expect 10 years old? I am not making proposals. I am saying that, if I were in charge of this issue, I would not have begun with a bill; I would have begun with a wider study looking at behaviours and activities and talked to concerned people all over the country. Then I would have come forward with a bill. What springs to mind is the very masterful report that — can I just have a minute?

**The Hon. the Speaker:** Is it agreed honourable senators?

**Hon. Senators:** Agreed.

**Senator Cools:** What comes to mind, and I have read this report, is the masterful report done by Daniel Patrick Moynihan, an American, on Black families and ghettos in 1965. The study, known as the Moynihan report, was masterful; he literally looked into the future and saw the negative social consequences for ghetto families that would flow from many poorly and ill-considered social policies.

I had wanted to bring this in a much more studied, scientific and considered way today, rather than these few remarks I put together last night in a very short period. We have an opportunity in the Senate to do a landmark study on this particular subject matter, honourable senators.

Human sexual activity is not a subject that is widely studied. That is the absurdity of it all. Having said that honourable senators, whoever sponsored the bill is free to send it on to the committee, but I look forward in the fall to this bill's consideration in committee.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agree to and bill read second time.

#### REFERRED TO COMMITTEE

**The Hon. the Speaker:** When shall the bill be read the third time, honourable senators?

On motion of Senator Cochrane, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

#### NUNAVIK INUIT LAND CLAIMS AGREEMENT BILL

##### SECOND READING—DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Segal, seconded by the Honourable Senator Keon, for the second reading of Bill C-51, to give effect to the Nunavik Inuit Land Claims Agreement and to make a consequential amendment to another Act.

**Hon. Charlie Watt:** Honourable senators, I wish like to say a few words in Inuktitut before addressing this bill.

*[The honourable senator spoke in his native language.]*

• (1450)

I will translate what I just said, or at least summarize it a bit.

I am saying, honourable senators, that I am privileged to be a senator, and I am also beginning to realize that an opportunity such as being able to speak in our mother tongue has been talked about and dealt with in this assembly. I think it is important, not only to me and to Senator Adams, but also to people listening to our proceedings from time to time or by any other means, a way for the Inuit to understand what is happening within this important assembly.

I take this matter seriously, and I appreciate that my colleagues are beginning to move in the direction of accommodating Senator Adams and I to be able to address this assembly in the language that we know best. That is what I said.

Honourable senators, I would like to acknowledge and express appreciation by echoing the positive words of Senator Segal when he put forward this important bill which will touch upon many of my people. I am sure you will agree that things are not always right. Things are never perfect. Those are the facts of life. Nevertheless, honourable senators, life goes on.

I would also like to echo the fact that Senator Segal mentioned that it is our responsibility in this chamber to promote and advance the culture of our people and their tradition in a way they can further advance themselves.

However, there is always a “but.” When we are involved in stipulating a law such as this that will affect us for a lifetime, we have to be cautious and very careful as to what extent we may be infringing on the lives of the people, especially the people who live a very different lifestyle than what we know as the life lived in Ottawa and the big cities.

Today, honourable senators, we are still living in very much nomadic ways, the traditional way. We live with the cycle of nature and the migration of renewable resources upon which we depend for our livelihood, survival and to clothe ourselves. For this reason, honourable senators, it is important for me to address some critical issues.

As I mentioned earlier, this will be the ever-lasting document that we have to live through. It is important for the people to understand clearly and not to be misled in terms of what they inherited as a people. Over time in this country, we have made settlements with the Aboriginal people. Over time in this country, we have felt that we did the right thing. We find out down the road that we have not actually done the right thing.

I hope as honourable senators that our responsibility is to the minority people and the Aboriginal people. This is reflected when we call for justice. Justice is hard to achieve at times. It depends on how you deal with it as it comes and serves you well. At times it goes the other way.



For this reason, honourable senators, I would like to read into the record a letter that I wrote to my leader in my region of so-called Nunavik. This agreement does not really deal with the mainland of Nunavik, but it deals with offshore, the islands and the resources. It is in regard to management and well-being.

I feel today that I am being called upon to modernize my life and that of my people. I am not entirely sure as to whether a modification can actually take place. I will give you several reasons why I feel that what we are doing here will put our people in the position of breaking the law without knowing they are doing so. That is my concern.

The rule of law is the rule of law. We have to respect that. The Constitution is the law. There are reasons why section 35 of the British North American Act was entrenched in 1982. There are reasons why part of that section, section 25, is also entrenched within the Constitution and considered to be the seal from the bigger society so there would not be much destruction between the two and careful scrutiny can take place in order to respect both sides. I would like to see that, honourable senators, but I am not sure whether I will live to see that. I can see parts of this agreement going in the opposite direction, which does not allow what I have suggested to happen. Perhaps the corrections can be made down the road, and this is one of the reasons I am asking legal minds to put a framework around that and to see whether there is another alternative so that justice can be provided.

Honourable senators, I will read the letter I wrote to my leader and the president of Makivik Corporation. It is important that it be put on the record.

Dear Mr. Aatami,

On March 28, 2007, the Honourable Jim Prentice, Minister of Indian and Northern Affairs, tabled Bill C-51. The aim of the bill is to ratify the Agreement and I shall be called upon to vote on it. I have accordingly felt obliged to examine both the bill and the Agreement in greater detail.

I have serious concerns about the impact of the bill and of the Agreement. I see in these pieces of legislation important and negative consequences for the Inuit of Nunavik.

My fears have to do primarily with four major themes:

- Does the agreement prevail or not over Canadian and Nunavut legislation and if so, to what extent?
- The surrender of the rights that are protected by the 1982 Canadian Constitution.
- The governance of the Nunavik Marine Region is subject to the approval of the federal minister.
- The benefits are far less than expected.

#### **Prevalence of the agreement**

On the issue of the prevalence of the Agreement over Canadian legislation, there are two important concerns that must be clarified. The first stems from the fact that the English version of Section 6 of the bill differs from the French version.

• (1500)

In French, there is no equivalent of what the English version says at the end of the first paragraph: "to the extent of the inconsistency or conflict." This difference is important, since it creates confusion in the scope and interpretation of the Act and the Agreement.

The fact that two pieces of legislation deal with the same subject does not mean that they are incompatible. They may both apply simultaneously if they are not incompatible.

The other important uncertainty is the scope and the impact of the incompatibility. For example, in 1999, "Lac Doré Mining Inc." announced a mining development project in the Chibougamau region. This case is still before the courts with respect to the issue of whether the environmental assessment process under the James Bay Agreement prevailed over that of the Federal Environmental Assessment Act.

The Superior Court supported the position taken by Lac Doré Mining Inc., the Grand Council of the Cree and the Government of Quebec. The decision, in fact, was that the Canadian Environmental Assessment Act did not apply and the James Bay Agreement process prevailed.

The Government of Canada has appealed the decision and maintains that both processes apply. Do you understand the importance of knowing the scope of a clause in advance? Faced with such a situation it will be very difficult to interest investors.

It is accordingly extremely important to clarify the scope of what the incompatibility and the conflict between the Agreement and the Canadian statutes mean for several reasons:

1-The implementing agencies of the Agreement will adopt a wildlife management plan and a land use plan and will examine the impacts of development activities. On the other hand, section 2.10 of the Agreement stipulates that federal legislation applies: the Fisheries Act, the Canadian Environmental Act and the Endangered Species Act. What exactly is the space in which the Agreement will prevail?

2-Clause 5.3.4 of the Agreement stipulates that the current quotas and restrictions on the harvesting of wildlife remain in force and are presumed to have been established by the Nunavik Marine Region Wildlife Board. Furthermore, and pursuant to section 5.3.7, those quotas and restrictions are deemed to address the needs of the Inuit of Nunavik and cannot be changed until 20 years has expired, pursuant to sub-section 5.3.8 of the Agreement.

These quotas and these restrictions were adopted pursuant to the Fisheries Act and the Endangered Species Act. These restrictions have a negative impact on the daily lives of the Inuit of Nunavik.

As you know, the Inuit hunt, fish and harvest in accordance with their traditional knowledge and they follow the cycle of nature and migratory cycles. The regulations, on the other hand, are based primarily on scientific knowledge and are inflexible. It is absolutely essential to ensure that the needs of the Inuit take precedence over current federal regulations and to clarify which prevails.

The same issues and uncertainties exist with respect to many aspects of the life of the Inuit for eating and clothing such as hunting, fishing and harvesting beluga whales, seals, fishes, fauna's down, eggs, wild fruits, sea food as herrings, mollusks and seaweed.

That is in the matter that related to renewable resources. Let me move on to the constitutional aspects.

### Constitutional Rights' Surrender

Sub-section 2.1 states that the Agreement is a treaty within the meaning of Section 35 of the 1982 Constitutional Act. Furthermore, the Inuit of Nunavik agree not to exercise or assert any ancestral or treaty rights other than those stipulated in the current Agreement, in accordance with sub-section 2.29.3. Thus, the only ancestral rights of the Inuit of Nunavik will be those found in the Agreement. This is unbelievable.

**Senator Corbin:** Giving away your soul.

**Senator Watt:** The letter continues:

Many generations have worked very hard for the recognition and protection of aboriginal rights as it is now stated by the 1982 Constitution. Presently and for the future we surrender and convert them in a piece of paper, the Agreement providing: Wildlife Board, Planning Commission, Impact Review Board, quotas restrictions for 20 years and \$5 million per year for ten years.

Since the Treaty of Paris of 1763, the Indians have signed many treaties and a multitude of Court decisions have confirmed the ancestral and aboriginal rights. Ultimately, the 1982 Canadian Constitution recognizes and protects those rights and for all Indians, Inuit, and Metis.

Today's Agreement would erase all this. It is not constitutional to surrender a right that is recognized and protected by the Constitution and protected by Section 52 of the Constitution, which renders null and void any legislation that is incompatible with the Constitution.

There are also serious doubts as to whether the Makivik representing the collectivity of Inuit can legally surrender ancestral rights on behalf of the individuals to whom such rights have been granted.

One might wonder what that means. Has our individual power of attorney been protected so that our representatives can exercise and surrender our rights? The civil law says that if you give away your rights, you have to provide a power of attorney in order for someone to represent you. Has that been violated? Under the common law, which I am not an expert on, there is the Canadian Charter of Rights and Freedoms and there is the rule of law. Does

the rule of law allow anyone to treat me as furniture without me giving consent to someone to represent me? This has to stop because it has been happening not only within isolated areas that I have been talking about. This is an issue that we definitely have to revisit. This is why I call upon the legal minds to determine what adjustments need to be made because we no longer should be in such a position and repeating the same mistakes without ever learning from them. I admired an old lady at the meetings held in Quebec City and in Montreal who said that if we do not learn from our mistakes, we will make the same mistakes again. We are going in the same direction because we have not learned from our mistakes.

Today's agreement would erase all this.

• (1510)

First, Makivik is stipulating for a third person when negotiating the surrender of individual Aboriginal rights of Inuit of Nunavik. Considering that the Inuit of Nunavik live in the province of Quebec, the Civil Code applies and the Makivik must work in compliance with the code. Mainly, they need personal authorization to act on their behalf.

Second, Makivik has a role to play on behalf the Inuit of Nunavik when it is related to the James Bay Northern Quebec Agreement. However, I do not think they have the same capacity outside the James Bay territory on matters of federal jurisdiction. As honourable senators know, I was founding President of Makivik Corporation and created this instrument, so I know what I am talking about. I have gone through the necessary steps to obtain a power of attorney before I bind them into the agreement in principle. I go through the same exercise before I bind them on the final agreements to obtain the power of attorney. That is protection for me, for the people and for the government. I have not seen that since but it needs to be revisited and examined seriously.

With respect to the entire issue, the government should refer the agreement and Bill C-51 to the Supreme Court of Canada so that their constitutionality can be examined. It is preferable that such a referral be initiated by the federal government itself since an individual, who has no intention of surrendering dearly bought rights, could decide to go before the courts in search of a new *Malouf* judgment.

I participated in a radio phone-in show between 9:30 a.m. and 12 p.m., along with the Makivik representatives, the people who negotiated this document, and legal counsel from Makivik Corporation. There was heavy emphasis on "extinguishment" and the fact that it did not apply at this time. Do honourable senators know what "extinguishment" means in this case? It means that what is not contemplated in the agreement is considered to be surrendered. It even came to the point that surrender does not apply, let alone extinguishment. They said it does not apply.

I quote from the *Windsor Review Legal and Social Issues*, Issue 29:

Extinguishment and the Fallacy of Certainty.

Despite the Supreme Court of Canada's recognition of the doctrine of Aboriginal title, and despite various calls from task forces, commissions, and scholars to end its policy



of extinguishment, the Federal Government has done little to alter this part of its approach to comprehensive land claims agreements. Of course, as was discussed above, more recent agreements have included broader land rights and the removed explicit language of extinguishment. Yet, the latter is really nothing more than a matter of semantics, wherein blanket extinguishment provisions have been replaced by "surrender," cede," or "release" clauses, and in some cases, non-assertion clauses, whereby the affected Aboriginal peoples may not claim in the future any rights that are not outlined in the agreements. Ultimately, the end result is the same — the Government achieves supposed certainty in the agreement, but Aboriginal title and rights must be relinquished in order to achieve a final settlement.

What has changed? It is a fancy way of saying the same thing and they even call it a "technique." It is a federal policy. We had better make changes to government policy if we are to close the gap and succeed with land claims agreements.

I will turn to the heading, "Governance of Territory" in the letter that I described to the President of Makivik Corporation.

The Agreement stipulates that governance of the Nunavik Marine Region shall be exercised through a Nunavik Marine Region Wildlife Board, a Planning Commission and a Commission charged with reviewing the repercussions.

Under the Agreement, governance of Nunavik Marine Region will not be in the hands of the Inuit of Nunavik and new problems might arise. Let me tell you why.

1. These organizations will take decisions but none of them will have legal effect. In order to be legally valid and to have any effect, they will have to be approved by the minister.

The people who live by the cycle of nature in that region will not have any power to make decisions. They will have an authority to make recommendations only. They will sit on the board as a minority. I expected, given that my people will benefit from this, that they would be the majority on the board, but that is not proposed.

The Inuit of Nunavik are in minority. The Nunavik Marine Region Wildlife Board, NMRWB, will have seven members, three of whom will be appointed by Makivik, three others by the federal government and a seventh by the Premier of Nunavut.

• (1520)

The Planning Commission will have a minimum of one federal member and one member from Nunavut and Makivik will recommend two members. It must be noted that those are recommendations only and that the Department of Indian Affairs and Northern Affairs must confirm the appointments.

The commission responsible for reviewing the impact will have five members: Makivik will propose two names and the Minister of Northern Affairs would appoint them. One will be appointed by the federal government and the other by Nunavut. One member will be designated as Chair by the Minister of Indian and Northern Affairs after consultation with Nunavut.

Again, it is outside of our territory, outside of our people.

The activities of these organizations will require the hiring of specialized and knowledgeable personnel, whom are not necessarily available in sufficient numbers among us, nor among the Inuit of Nunavik. Once again, decision-making will not be primarily in Inuit hands.

The federal government will fund those agencies for the first four years. The activities and the implementation of these agencies' responsibilities will be funded by whom, subsequently?

We do not know. Maybe they will cease to exist. Maybe we have to get the money out of our own pockets.

Lastly, the governance described in the Agreement does not reflect a genuine partnership in which both parties are the winners.

The benefits of the Agreement are made up of land ownership, the sharing of royalties on resource development, a transfer of funds, payment of an amount for the implementation of the Agreement and a sum of money for research on wildlife resources.

A last word about the capital and the amount of money involved. A Nunavik Inuit Trust will receive, hold and administer this for the benefit of the people and can distribute monies individually or collectively for educational, social, cultural and socioeconomic needs. Saying this, I realize that I do not know what happens with my immediate day-to-day needs.

As you can see, my analysis of Bill C-51 and Agreement has raised many questions and concerns. I feel it is unfortunate that my comments should be forthcoming at this point, but I had no choice. Throughout the negotiation process, things seemed to be developing satisfactorily and the Inuit were hearing positive messages about the Agreement.

I have followed closely what was reported on the radio and in meetings with the people in my community and I realize that the messages I heard do not correspond with the analysis that I have made of it.

Moreover and as you know, since 1993 Inuit of Nunavut have an Agreement similar to the one signed by Makivik Corporation on behalf of Inuit of Nunavik on December 2006. Coincidentally, the same month, the Inuit of Nunavut initiate a lawsuit against the Queen in Right of Canada claiming damages for more than \$1 billion.

After this, will we have a repeat?

The Inuit of Nunavut are pleading: breach of contract, breach of its fiduciary obligation and add that: "the Crown has since the inception of the Agreement adopted an inflexible policy of refusing its consent to have any matter related to the Agreement resolved through arbitration." I include the court documents about this.

These elements are why I am openly raising my serious fears and the significant and negative consequences of the Bill and of the Agreement, as I see them.

Remember that many generations have worked very hard for the recognition and the protection of our aboriginal rights. I could never have imagined that our rights would have been set aside in a way that they are by this Agreement.

I am at your service for a discussion of this issue, which is of prime importance, with a view to improving the Agreement. I do believe that there is a way to improve the Agreement without surrendering Inuit of Nunavik's aboriginal rights.

This was a letter that I forwarded to Pita Aatami on May 8. Up to today, I have not received a response, other than very critical responses from time to time that have come through the radio.

I will quickly read another document that I feel should be tabled in the Senate. I also wrote a letter on June 6 to the Minister of Indian Affairs, but this is only two pages long. Before I read the letter, I would like to tell honourable senators that I spoke to the minister, and he has not seen nor read it. The subject of the letter is Bill C-51.

Dear Minister Prentice:

On March 28, 2007, you introduced Bill C-51, which would ratify the Nunavik Inuit Land Claims Agreement. At the same time, you released the final text of the Agreement. I have requested an opinion and I have deep disagreement on both.

On May 8, 2007, I sent a letter to the President of Makivik Corporation, a copy of which was sent to you. This letter raised serious and important concerns about interpretation of the bill and the Agreement and serious impact on the Constitutional and Aboriginal rights.

The President of Makivik Corporation acknowledged receipt of my letter but in no way addressed my concerns, which are now shared by more and more Inuit and non-Inuit. Moreover, Makivik is using a summary that contains misleading information on important elements of the Agreement.

An example of misleading information is about quotas and restrictions to harvest. As you know, those quotas and restrictions have a negative impact on the day-to-day lives of Inuit of Nunavik. However, in the summary of the agreement, prepared by Makivik and used in their campaign, there is no mention that quotas and restrictions are in place and will remain for 20 years. You can see why I became critical.

Those quotas and restrictions put in jeopardy the day-to-day needs of an individual while they should be the priority and the base instead of wildlife preservation and land management.

As you know, Aboriginal people harvest according to the cycle of nature to make sure they fulfil the needs of their families and their communities. In fact, the quotas and restrictions should apply only on sport and commercial activities.

Another example of misleading information is about the establishment of bodies to manage wildlife, for land use planning and to review impact of development in the Nunavik Marine Region. We would expect as the summary from Makivik shows that Inuit of Nunavik would have majority on those bodies, but the final text of the Agreement says they are in minority.

The money is not an issue compare to the most important concern, the surrendering of Aboriginal rights.

While the Constitution of Canada recognizes and affirms Aboriginal rights, it is unacceptable that the Agreement says that the Inuit of Nunavik will not exercise nor assert any of those Aboriginal rights. The impact of the Agreement would be that Section 35 of the Constitution of Canada will become meaningless.

• (1530)

Section 35 of the Constitution of Canada requires positive action from the government in order to respect, to promote and to fulfill such rights. Unfortunately and since the entrenchment of Aboriginal rights, we see a systematic process to extinguish our rights. This is unacceptable. Constitutional rights are upheld as the highest law of the Land, the rule of Law applies and I am sure that you agree with me.

People of Nunavik are very upset about the consequences of the Agreement compared to the information they received. Yesterday, from 9:15 to 12:15, I took part of an open line on the radio speaking with the people who were alarmed by the fact that their leaders could have misled them. It is regrettable it got to this point. As a Minister, I am sure you do not want to be part of this misleading information to the people.

Daily needs of Aboriginal people, especially Constitutional rights should not be dealt as a regulatory issue. It should be dealt with a nation to nation approach in order for us to have harmony in Canada. I know that you have a very busy schedule and at your convenience, it is important that we meet on this serious matter.

Enclosed, you will find the letter that I have sent to the President of Makivik, my legal assessment document and a copy of a summary from Makivik.

Honourable senators, I know I am taking a lot of time here, but I do feel this matter is important. One issue I wish to emphasize is why I feel I have a responsibility to speak out for justice in this instance. I know the people; I am one of them. I see them, I work with them, I travel with them, I hunt with them. I do feel that I have a very clear understanding of the situation they are in today.

I am talking about where we are compared to the other, bigger societies. Are we ready to be entering into agreements such as this? Are we only going to be hurting ourselves because we did not provide enough protections for ourselves and put enough protections into the agreement for the actual behaviour of our people — how we work and how we live with nature? That is not implanted in the agreement.



Are we so willing to adopt the new way of life and comply with the law and the regulations? Are we further putting ourselves into the position of being locked up and having more and more people put away? As honourable senators know, when our people have been jailed, they have been put away for quite a while. Will they ever recover from the symptoms they develop as result of incarceration? Those are the issues I must come to grips with.

I must say to honourable senators that there was a way to improve this agreement; unfortunately, however, the bill is ready to go to the committee and be approved.

Although I am in disagreement, there are those who are pushing for this agreement. Whatever reasons they might have are theirs; I have already stated my reasons, which I feel are important as well. However, I am not so willing, at this stage in the lives of my people — knowing where they are at — to say to you that I will comply with those rules and regulations. I know, for a fact, that when we have to eat, clothe ourselves and find shelter, sometimes we have to ignore the rules.

There is a provision in the agreement that states, yes, you can break the law — it does not actually say that; rather, it refers to an emergency. If my life is threatened — if an animal is going to end up killing me — on the basis of such an emergency, I can kill the animal outside of the rules and regulations that have been set — or if I am starving.

**The Hon. the Speaker:** I wish to advise Senator Watt that his 45 minutes have expired.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Five minutes is fine.

**Senator Watt:** I think I can wrap this up in five minutes.

**Senator Cools:** I would like time for questions.

**Senator Watt:** Yes.

It is hard for us to describe at times the way we live, because it is so close to us — the way we live, the way we behave, the way we interact with nature and wildlife. When we travel, many times we do not take with us supplies that we have bought from the store. We take what we need from the land as we go along — and this is not in the agreement. We take off by boat or canoe — both of which have been modernized to a certain extent — but we take what we can take from the land. It might not be the right time, according to the law, but we take it. However, if I do not have the necessary or proper identification for breaking the law, there is no excuse for not knowing the law — something all honourable senators know.

This scares me. A unilingual Inuk person being charged has no idea why he or she is being charged and brought to court. We have had an incident regarding belugas. The Department of Fisheries and Oceans set a quota respecting belugas, and some individuals happened to go over the limit. Three people were charged, and two of them were brought in front of the judge. The judge asked whether anyone could give him a clear indication of what the matter was all about, but no one was there so the matter was postponed.

Eventually, I, together with the people from the Standing Senate Committee on Fisheries and Oceans, brought down the people from the North. I think we had some impact, as they dropped the charges. They were lucky in that sense.

I keep emphasizing that we need a legal mind to help us understand and see whether we can provide better justice. I concur with Senator Segal, when he mentioned this matter should be referred to the Standing Senate Committee on Legal and Constitutional Affairs. I really would like that to happen and I appreciate it too.

**Hon. Anne C. Cools:** Honourable senators, I should like to ask a question. Yesterday, Senator Segal gave us a presentation on this bill — either yesterday or the day before — and I listened to him carefully. I know Senator Segal to be an extremely sensitive man and a very kind man — and, I would also say, a good senator who wants to see matters put right with the Aboriginal peoples.

• (1540)

I would remind honourable senators that this is not Senator Segal's bill, and we must be mindful of that. Senator Watt put a lot on the record, and much of what the honourable senator has said will have to be carefully studied and looked at. I am sympathetic to that, and I will read it very carefully. However, I wanted not to defend Senator Segal, because Senator Segal needs no defence, but only to say we should be mindful at all times that it is not unusual for honourable senators here to be very —

**The Hon. the Speaker:** I wish to advise the house that the extra five minutes that Senator Watt was awarded has expired.

**Senator Cools:** Can I finish my sentence?

**Hon. Tommy Banks:** Honourable senators, I apologize, because I had indicated earlier that I wished to speak to this, and then I said I did not, and now I do. I hope one of us will move this at its conclusion to the committee.

Honourable senators, there is no one in this place or anywhere else who knows less about Aboriginal matters and settlements than I do. There is no one who knows more about it than Senator Watt, who was involved in agreements which have long since existed and seem to be operating well. In fact, he was involved in the beginning of this agreement as well.

Great attention must be paid to the things Senator Watt has said, as Senator Cools has mentioned. I trust the members of the committee will do that. However, there are specific questions which I think we ought to have had the advantage of being able to ask and which we cannot ask because the effect of this bill is to give legal status to an agreement and we do not know what is in the agreement. The agreement is not here. Ordinarily, when we are talking about bills like this that bring something else into effect, we are able to see the something else. It had not occurred to me the other day to raise that question, but Senator Watt has raised questions that give rise to other questions other than the ones he has specifically referred to that would require looking at the agreement to which this bill refers. I hope and trust that the committee will do that.

Two specific questions that have been brought to mind by things that Senator Watt said. For example, if we look at Bill C-51 we will see on page 2, in clause 2:

“Makivik” means the corporation established by An Act respecting the Makivik Corporation, R.S.Q., c. S-18.1 . . .

I presume “RSQ” means Revised Statutes of Quebec. The question that immediately came to mind is whether the Government of the Province of Quebec is party to the agreement referred to here.

With respect to things raised by Senator Segal the other day, some of the lands referred to in the agreement are in the province of Newfoundland and Labrador. Is the Province of Newfoundland and Labrador a party to this agreement? Have they acquiesced to this agreement?

I am sure these questions will be answered. I commend the attention of all honourable senators to follow closely the proceedings of this bill because of the things that Senator Watt has raised. I reiterate that no one here knows more about these issues than Senator Watt. I thank Senator Watt for the lesson. We have just been to school.

[Translation]

**Hon. Eymard G. Corbin:** Honourable senators, later today, the Standing Senate Committee on Foreign Affairs and International Trade will meet with Canada’s Minister of Foreign Affairs to consider Bill C-61, An Act to amend the Geneva Conventions Act, An Act to incorporate the Canadian Red Cross Society and the Trade-marks Act. Fortunately all senators have the schedule that follows clause 3 of the bill in their possession. It provides the text of Protocol III, which is a protocol additional to the Geneva conventions.

Each time that the Parliament of Canada has been faced with adopting legislation pursuant to a convention, a treaty, or a protocol, the full text of the treaty, protocol, or convention has always been printed with the text of the bill.

Clause 3 of Bill C-51 says that:

The Agreement is a treaty within the meaning of section 35 of the Constitution Act, 1982.

Why do we not use the same provisions for accords or treaties with Canada’s Aboriginal peoples that we use for international accords, treaties and protocols? They are recognized as nations, after all. The text of this bill refers to the agreement signed between the Government of Canada and the Nunavik Inuit, but the text of the agreement is not provided. Furthermore, I would like to know if it is available in Inuktitut, French and English, as required by the Official Languages Act and related statutes.

It seems to me that they should have printed the text of the agreement so that senators can become familiar with its contents and satisfy their natural curiosity before approving the text of the bill before us.

I do not know, in the case of treaties with Aboriginal peoples, if we actually printed the text of the agreement in the past. It seems to me that we should follow the international practice, given that it is a treaty. This treaty should be available in both official languages as well as in the native language of the people governed by the agreement and the bill.

I will not raise a point of order, but I find this to be a serious matter of substance. How can we intelligently examine a bill, unless we have Senator Segal’s briefing book? How can we weigh the importance of this agreement before giving our approval to the bill? Perhaps committee members have copies. If I am asked, at second reading stage, to comment on the substance of the bill, first I would like to have a look at the text of the agreement. I am a citizen of Canada and I want to know what commitments my government is making to the peoples of the North. I am making this complaint. I am not raising a point of order but I hope that the committee members who will be asked to examine Bill C-51 will take my complaint into consideration.

• (1550)

[English]

**Hon. Hugh Segal:** Honourable senators, I wish to ask a question of my colleague Senator Corbin and I do so in the context of my own relative inexperience in this place. I did inquire of officials, with whom I met before I presented the bill for consideration of senators, and was informed that the agreement of which the honourable senator speaks was tabled in the Senate by Senator Comeau on March 28, 2007.

However, I am asking the senator whether he will accept my apology. I should have asked officials to make copies in all three languages available before I spoke. I did not do that. I ask that the honourable senator accept my apologies concomitant with a commitment that those agreements will be distributed to all members of the Senate before committees begin to meet on this matter.

**Senator Corbin:** The senator is so nice that I will forgive any of his sins of commission or omission.

I was not, in the course of my remarks, reproaching the honourable senator. I was merely indicating that he had the material in his possession and could use that material in his speech at second reading. I do not have that material. I do not know what I am committing myself to. I must put all my trust in a member of that committee to do a thorough job. In the process, I also had the specific grievance of wanting to ensure that it is available in Inuktitut and both French and English. Can the honourable senator answer me in that respect?

**Senator Segal:** The document is in English and French. The framework agreement for negotiation, signed by our good friend, Senator Watt, who was then the president of Makivik, provided for negotiations and documents being done only in English. That was the framework agreement agreed to among the negotiators on all sides. However, I will inquire. Certainly English and French is available and I will address that straightaway. As to the other availability, I will find out and bring that information back as quickly as I can.



**Senator Corbin:** I recognize the absolute right of people to negotiate in the language they wish, but for the purposes of the Parliament of Canada and the purposes of passing legislation it must be available in both official languages.

**Senator Segal:** In regard to the Inuktitut proposition that the honourable senator raises, I do not know the answer, but I will inquire.

**Senator Cools:** I would like to add a few words in this debate on Bill C-51. I would like to begin by thanking Senator Watt and Senator Segal. I think Senator Segal yesterday gave a good description of the bill. I am very mindful it is not Senator Segal's bill, but he gave a very good description of the bill and as we know Senator Segal is an extremely gifted and competent and I would say well-intentioned senator and we should bear that in mind.

Senator Watt knows the deep affection that many honourable senators hold for him. I want to raise and put on the record a few of the questions and perhaps some of these questions can be raised with Mr. Prentice, the minister.

In addition to the points that Senator Corbin and Senator Banks have raised, it is very important that whatever we are voting on must be before us. These doings are seeping into our practices more and more. Some years ago there was a bill before us, which I remember had something to do with the old Quebec civil law. I argued at the time that we could not just pass a law saying that something was done unless the clauses and the actual words we were voting on were actually before us in the bill.

I would like to note a few more anomalies about the bill. The heading "Her Majesty," which is clause 4, reads as follows:

This Act is binding on Her Majesty in right of Canada or a province so as to give effect to the Agreement in accordance with its terms.

Her Majesty gives effect to the agreements. I find that strange. Her Majesty gives effect to every single bill and is the enacting power. She is the one who enacts this bill. As a sovereign, she is the signer of every treaty. I find this strange.

If honourable senators go down to clause 5 under the heading "Agreement," clause 5(1) states:

The Agreement is approved, given effect and declared valid.

How can this house approve, give effect and declare valid something when one does not know what it is and it is not in the text of the bill at all?

Mr. Prentice is an extremely well-intentioned man. I have respect for Mr. Prentice as a minister. I am not sure to which committee this is going, but I would suggest the Standing Senate Committee on Legal and Constitutional Affairs and I would suggest that the committee take a careful look at this bill in terms of its drafting because there are some oddities.

There is also the other question on the substantive issues as put forward by Senator Watt that the committee will have to review. I have been listening carefully, Senator Watt, and I have full confidence that Senator Segal would never mislead this house.

On the issue of these drafting oddities, I have noticed the terminology. This bill is called Bill C-51, An Act to give Effect to the Nunavik Inuit Land Claims Agreement and to make a consequential amendment to another Act. The phrase "an act to give effect to" seems to have come into currency. As I am looking at Senator Fraser, I remember Bill C-20, the Clarity Act. It was described as an act to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference. Perhaps we should be looking at some of this terminology in regard to this bill or in other bills.

I would suggest that at some time, separate from this bill, this house should strike a committee to look at these oddities and practices that are introduced little by little quite often by well-intentioned drafters over at PCO or the Department of Justice, but who, in fact, know very little about Parliament and the ancient parliamentary requirements around drafting.

Honourable senators will remember that the Federal Accountability Act had some strange language in it, such as "referring matters to the Speaker" and so on. We all know what an order of reference is and that you cannot refer anything to a Speaker. All honourable senators know what that means.

The substance of the question is profound. I do not pretend to know enough about Aboriginal issues. However, I say to Senator Watt and I am sure I speak for Senator Segal and for most honourable senators in this room that most of us would like to see matters put right with the First Nations people of this country. It is a continuing source of pain and anguish for a large number of us. Therefore, the honourable senator should begin with the understanding that there is a lot of goodwill.

However, that being said, these matters must be dealt with in terms of what is before us.

I appeal to Senator Segal and to the committee to take a serious look at Bill C-51 because there are a few things that are very odd in the drafting of this legislation and simply tabling the treaty does not bring it forward in this proceeding. As we know, some action has to be taken on a document that is tabled. It does not become part of this proceeding on Bill C-51 without specific action. Because I know it is coming to the end of the term and because I have considerable respect for —

Debate suspended.

## BUSINESS OF THE SENATE

**The Hon. the Speaker:** Honourable senators, it being 4 p.m., pursuant to the order adopted on April 6, 2006, I must interrupt the proceeding for the purpose of suspending the sitting until 5:30 p.m. at which time the Senate will proceed to the taking of the deferred vote on the subamendment to Bill C-288. The bells will start ringing at 5:15 p.m.

The sitting was suspended.

• (1730)

## KYOTO PROTOCOL IMPLEMENTATION BILL

### THIRD READING—MOTIONS IN AMENDMENT AND SUBAMENDMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Trenholme Counsell, for the third reading of Bill C-288, to ensure Canada meets its global climate change obligations under the Kyoto Protocol;

And on the motion in amendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Angus, that Bill C-288 be not now read a third time but that it be amended:

(a) in clause 3, on page 3, by replacing line 19 with the following:

“Canada makes all reasonable efforts to take effective and timely action to meet”;

(b) in clause 5,

(i) on page 4,

(A) by replacing line 2 with the following:

“to ensure that Canada makes all reasonable efforts to meet its obligations”,

(B) by replacing line 6 with the following:

“ance standards for vehicle emissions that meet or exceed international best practices for any prescribed class of motor vehicle for any year,”, and

(C) by adding after line 13 the following:

“(iii.2) the recognition of early action to reduce greenhouse gas emissions, and”,

(ii) on page 5,

(A) by replacing line 9 with the following:

“(a) within 10 days after the expiry of each”,

(B) by replacing line 23 with the following:

“first 15 days on which that House is sitting”, and

(C) by replacing lines 26 and 27 with the following:

“each House of Parliament is deemed to be referred to the standing committee of the Senate and the House of Commons that”;

(c) in clause 6, on page 6, by adding after line 29 the following:

“(3) For the purposes of this Act, the Governor-in-Council may make regulations restricting emissions by “large industrial emitters”, persons that the Governor-in-Council considers are particularly responsible for a large portion of Canada’s greenhouse gas emissions, namely,

(a) persons that are part of the electricity generation sector, including persons that use fossil fuels to produce electricity;

(b) persons that are part of the upstream oil and gas sector, including persons that produce and transport fossil fuels but excluding petroleum refiners and distributors of natural gas to end users; and

(c) persons that are part of energy-intensive industries, including persons that use energy derived from fossil fuels, petroleum refiners and distributors of natural gas to end users.”;

(d) in clause 7,

(i) on page 6,

(A) by replacing line 32 with the following:

“that Canada makes all reasonable attempts to meet its obligations under”, and

(B) by replacing line 38 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 7, by replacing line 4 with the following:

“(3) In ensuring that Canada makes all reasonable attempts to meet its”;

(e) in clause 9,

(i) on page 7, by replacing line 33 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 8,

(A) by replacing line 3 with the following:

“Minister considers appropriate within 30 days”, and

(B) by replacing line 7 with the following:

“(1) or on any of the first fifteen days on which”;

(f) in clause 10,

(i) on page 8,

(A) by replacing line 9 with the following:

“10. (1) Within 180 days after the Minister”,

(B) by replacing line 11 with the following:



"tion 5(3), or within 90 days after the Minister", and

(C) by replacing line 38 with the following:

"(a) within 15 days after receiving the", and

(ii) on page 9,

(A) by replacing line 6 with the following:

"Houses on any of the first 15 days on", and

(B) by replacing line 9 with the following

"(b) within 30 days after receiving the advice,";

(g) in clause 10.1, on page 9,

(i) by replacing line 17 with the following:

"and Sustainable Development may prepare a",

(ii) by replacing line 32 with the following:

"report to the Speakers of the Senate and the House of Commons", and

(iii) by replacing lines 34 and 35 with the following:

"Speakers shall table the report in their respective Houses on any of the first 15 days on which that House".

On the subamendment of the Honourable Senator Segal, seconded by the Honourable Senator Gustafson, that the motion in amendment be amended by deleting amendment (g)(i) and relettering amendments (g)(ii) and (g)(iii) as amendments (g)(i) and (g)(ii).

Motion in subamendment negated on the following division:

Andreychuk  
Angus  
Cochrane  
Comeau  
Di Nino  
Eyton  
Gustafson  
Johnson  
Keon

Adams  
Baker  
Banks  
Biron  
Bryden  
Callbeck  
Campbell  
Cools  
Corbin  
Cordy  
Cowan  
Dawson  
Day  
De Bané  
Downe  
Dyck  
Eggleton  
Fairbairn  
Fitzpatrick  
Fraser  
Furey  
Goldstein  
Grafstein  
Harb

# YEAS THE HONOURABLE SENATORS

LeBreton  
Meighen  
Nancy Ruth  
Nolin  
Oliver  
St. Germain  
Stratton  
Tkachuk—17

# NAYS THE HONOURABLE SENATORS

Hervieux-Payette  
Hubley  
Joyal  
Kenny  
Lavigne  
Lovelace Nicholas  
Merchant  
Milne  
Mitchell  
Moore  
Munson  
Murray  
Pépin  
Peterson  
Phalen  
Robichaud  
Rompkey  
Smith  
Spivak  
Stollery  
Tardif  
Trenholme Counsell  
Watt—47

# ABSTENTIONS THE HONOURABLE SENATORS

Nil

The Senate adjourned until Thursday, June 21, 2007,  
at 1:30 p.m.

## CONTENTS

Wednesday, June 20, 2007

	PAGE		PAGE
<b>SENATORS' STATEMENTS</b>		<b>QUESTION PERIOD</b>	
<b>Budget 2007</b>		<b>Agriculture and Agri-Food</b>	
Hon. Jean-Claude Rivest . . . . .	2797	World Trade Organization—Supply Management.	
<b>The Honourable Daniel Hays, P.C.</b>		Hon. Céline Hervieux-Payette . . . . .	2801
Tribute.		Hon. Marjory LeBreton . . . . .	2801
Hon. Grant Mitchell . . . . .	2797	<b>Human Resources and Social Development</b>	
<b>Innovation</b>		Pay Inequality Between Men and Women.	
Hon. Wilbert J. Keon . . . . .	2797	Hon. Grant Mitchell . . . . .	2801
<b>First Ministers Meeting</b>		Hon. Marjory LeBreton . . . . .	2802
Hon. Catherine S. Callbeck . . . . .	2798	<b>The Environment</b>	
<b>National Securities Regulator</b>		Kyoto Protocol—Minister's Report on Cost of Bill C-288—	
Hon. Jeremiahiel S. Grafstein . . . . .	2798	Remuneration for Endorsements.	
<b>Visitor in the Gallery</b>		Hon. Lorna Milne . . . . .	2802
The Hon. the Speaker . . . . .	2798	Hon. Marjory LeBreton . . . . .	2802
		Hon. Hugh Segal . . . . .	2802
		<b>Finance</b>	
		National Securities Regulator.	
		Hon. Yoine Goldstein . . . . .	2803
		Hon. Marjory LeBreton . . . . .	2803
<b>ROUTINE PROCEEDINGS</b>		<b>The Environment</b>	
<b>Official Languages</b>		Kyoto Protocol—Minister's Report on Cost of Bill C-288—	
Budget—Study on State of Francophone Culture in Canada—		Endorsements.	
Report of Committee Presented.		Hon. Tommy Banks . . . . .	2803
Hon. Wilbert J. Keon . . . . .	2799	Hon. Marjory LeBreton . . . . .	2804
<b>Internal Economy, Budgets and Administration</b>		<b>Transport</b>	
Eighteenth Report of Committee Presented.		Passenger Protect Program—Identity Screening Regulations	
Hon. George J. Furey . . . . .	2799	for Young Persons.	
<b>Transport and Communications</b>		Hon. Claudette Tardif . . . . .	2804
Budget—Study on Containerized Freight Traffic—		Hon. Marjory LeBreton . . . . .	2805
Report of Committee Presented.			
Hon. David Tkachuk . . . . .	2799	<b>ORDERS OF THE DAY</b>	
<b>Business of the Senate</b>		<b>Appropriation Bill No. 2, 2007-08 (Bill C-60)</b>	
Conduct of Business on Friday, June 22, 2007—Notice of Motion.		Third Reading.	
Hon. Gerald J. Comeau . . . . .	2800	Hon. Gerald J. Comeau . . . . .	2805
<b>Canada-United States Inter-Parliamentary Group</b>		<b>Criminal Code (Bill C-22)</b>	
Co-chairs' Meeting, April 16, 2007—Report Tabled.		Bill to Amend—Second Reading.	
Hon. Jeremiahiel S. Grafstein . . . . .	2800	Hon. Anne C. Cools . . . . .	2805
<b>Canada-Europe Parliamentary Association</b>		Hon. Lorna Milne . . . . .	2806
Organization for Security and Co-operation in Europe		Referred to Committee . . . . .	2807
Parliamentary Assembly, Fall Meeting, November 17-19, 2006—		<b>Nunavik Inuit Land Claims Agreement Bill (Bill C-51)</b>	
Report Tabled.		Second Reading—Debate Suspended.	
Hon. Jeremiahiel S. Grafstein . . . . .	2800	Hon. Charlie Watt . . . . .	2807
Organization for Security and Co-operation in Europe		Hon. Gerald J. Comeau . . . . .	2812
Parliamentary Assembly, Winter Meeting, February 22-23, 2007—		Hon. Anne C. Cools . . . . .	2812
Report Tabled.		Hon. Tommy Banks . . . . .	2812
Hon. Jeremiahiel S. Grafstein . . . . .	2800	Hon. Eymard G. Corbin . . . . .	2813
<b>Inter-Parliamentary Forum of the Americas</b>		Hon. Hugh Segal . . . . .	2813
Executive Committee Meeting and Session of General		<b>Business of the Senate</b>	
Assembly of Organization of American States		The Hon. the Speaker . . . . .	2814
May 31 - June 5, 2007—Report Tabled.		<b>Kyoto Protocol Implementation Bill (C-288)</b>	
Hon. Céline Hervieux-Payette . . . . .	2800	Third Reading—Motions in Amendment and Subamendment—	
<b>Fisheries and Oceans</b>		Debate Continued. . . . .	2815
Notice of Motion to Authorize Committee to Extend Date			
of Final Report on Study on New and Evolving Policy			
Framework for Managing Fisheries and Oceans.			
Hon. Bill Rompkey . . . . .	2801		





*If undelivered, return COVER ONLY to:*  
Public Works and Government Services Canada  
Publishing and Depository Services  
Ottawa, Ontario K1A 0S5





CANADA



# Debates of the Senate

---

1st SESSION

•

39th PARLIAMENT

•

VOLUME 143

•

NUMBER 112

---

OFFICIAL REPORT  
(HANSARD)

Thursday, June 21, 2007



THE HONOURABLE NOËL A. KINSELLA  
SPEAKER



## CONTENTS

(Daily index of proceedings appears at back of this issue).

## OFFICIAL REPORT

### CORRECTION

**Hon. Marilyn Trenholme Counsell:** Honourable senators, I wish to put on record a correction to the *Debates of the Senate*, Tuesday, June 19, 2007. The record of my speech on Bill C-18 states: "Honourable senators, I rise to speak in opposition to Bill C-18. . ."

I wish to have this corrected to read as follows: "Honourable senators, I rise to speak on behalf of the opposition for Bill C-18. . ."

## THE SENATE

Thursday, June 21, 2007

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

**THE LATE SERGEANT CHRISTOS KARIGIANNIS  
THE LATE CORPORAL STEPHEN BOUZANE  
THE LATE PRIVATE JOEL WIEBE**

### SILENT TRIBUTE

**The Hon. the Speaker:** Honourable senators, before we proceed, I would ask senators to rise and observe one minute of silence in memory of Sergeant Christos Karigiannis, Corporal Stephen Bouzane, and Private Joel Wiebe, whose tragic deaths occurred yesterday while serving their country in Afghanistan.

*Honourable senators then stood in silent tribute.*

## SENATORS' STATEMENTS

### NATIONAL ABORIGINAL DAY

**Hon. Gerry St. Germain:** Honourable senators, today is National Aboriginal Day, a day for all Canadians to celebrate the unique heritage and contributions of Aboriginal peoples in Canada.

June 21 was chosen as National Aboriginal Day because it is the day of the summer solstice. For hundreds of generations, it has also been an occasion for Aboriginal people to celebrate their cultures. Although Aboriginal people share many similarities, they each have their own cultural practices and spiritual beliefs.

First Nations, Inuit and Metis have helped to shape Canadian society in several ways, including environmental protection, social change, the arts and economic development.

National Aboriginal Day is an occasion for First Nations, Inuit and Metis people to express their deep pride in their heritage and accomplishments. Their cultures form the cornerstone of Canada's history and enrich the lives of all Canadians. Canadians from all walks of life are invited to participate in the many National Aboriginal Day events taking place across the country. I encourage all members of this chamber to participate in these activities and to share in the celebration of this great day.

[Translation]

CONGRATULATIONS TO SHEILA WATT-CLOUTIER  
ON RECEIVING UNITED NATIONS AWARD  
MAHBUB UL HAQ FOR HUMAN DEVELOPMENT

**Hon. Céline Hervieux-Payette (Leader of the Opposition):** Honourable senators, this being National Aboriginal Day, I am honoured to inform you that Sheila Watt-Cloutier, a Canadian

Inuit activist, has received the prestigious Mahbub ul Haq award from the United Nations for her outstanding contribution to human development and the protection of our global environment.

[English]

Chosen by an international panel of judges from a list of 50 candidates, Ms. Watt-Cloutier received the Mahbub ul Haq Award last night in New York from UN Secretary-General Ban Ki-moon. Named after a renowned Pakistani economist and co-founder of human development theory, the award is presented to a world leader who has successfully put human development at the heart of his or her country's political agenda. It is in recognition of these contributions in influencing development groups and policy leaders around the world that the judges rightly bestowed this lifetime achievement award on Ms. Watt-Cloutier.

• (1340)

[Translation]

A well-known environmental activist and 2007 Nobel Peace Prize nominee, Ms. Watt-Cloutier is originally from Kuujuaq in Nunavik. She has dedicated her life to environmental conservation and protecting the interests of the Inuit.

As president of the Inuit Circumpolar Council, she succeeded in convincing the organization's member States to sign an agreement banning the production and use of pollutants that contaminate the Arctic food chain.

In 2005, she received the Sophie Award from Norway and the Governor General's Northern Medal for her leadership on environmental issues. Ms. Watt-Cloutier was also named an Officer of the Order of Canada in 2006. That same year, she received the Canadian Environment Awards Citation of Lifetime Achievement.

I, and I hope all my colleagues, would like to congratulate Sheila Watt-Cloutier on her social and environmental activism, applaud her for earning the prestigious Mahbub ul Haq award, and thank her for being an example to all her fellow citizens in promoting human understanding and development.

What a great gift she has given us for this National Aboriginal Day.

[English]

### CANADA-UNITED STATES RELATIONS

DEVILS LAKE, NORTH DAKOTA—  
EFFECT OF FLOOD CONTROL SYSTEM ON MANITOBA

**Hon. Janis G. Johnson:** Honourable senators, another unfortunate and nasty chapter on the Devils Lake outlet began on Monday, June 11, when the State of North Dakota, without notification, operated the outlet. This is a concern of epic



proportion for Manitoba. The province opposes this water diversion project that routes questionable water north through Manitoba to Lake Winnipeg.

At issue are the high levels of pollutants such as sulphates, arsenic and phosphorus, as well as invasive species, including parasites, in the lake water. One really cannot blame Manitobans for being concerned.

This issue has consumed me over the years. I have monitored it since the beginning, when the United States denied Canada's request to let the International Joint Commission deal with North Dakota's flood plan. We watched in awe as they set aside the Boundary Waters Treaty of 1909, a contract that promises we will work together to preserve the quality of our shared water. This is an accord that has kept relations working like clockwork through peace, war and the Depression. Who knew its undoing would be the Devils Lake outlet?

Devils Lake flooding has caused hundreds of millions of dollars in damage in the state of North Dakota. Flooding has swallowed thousands of hectares of farmland and caused hundreds of households to move. Governor John Hoeven says his state acted to protect "life and limb."

Manitobans are empathetic but also worried. They, too, have a right to protect life and limb, to have clean water flowing from this outlet. Their concerns have been largely ignored. The outward disregard for our lives and limbs has meant relations with the State of North Dakota have been acrimonious at best.

The fight this time is focused on North Dakota's relaxed sulphate standards and a broken promise of a better outlet filter. As I speak, this water is flowing into Manitoba even though its sulphate levels far exceed allowable standards.

Right now, the province is obviously looking for direction and assistance from the federal government. Recently, Manitoba's Minister of Water Stewardship, Christine Melnick, was in town to meet with Ministers Baird and Toews. Also on the file are Foreign Affairs Minister Mackay and Michael Wilson, Canada's Ambassador to the United States. I know these people to be talented, diligent and very skilled members of our caucus.

A resolution will require the participation of all of these players, along with the province and everyone concerned. As angry as we are, retaliation is not the answer; it merely isolates the parties and allows the water to flow freely. I suggest to Minister Melnick and all concerned that direction is coming from Ottawa and I hope there will be news soon.

#### NATIONAL ABORIGINAL DAY

**Hon. Sharon Carstairs:** Honourable senators, as today is National Aboriginal Day, it should be a day of celebration; and if our Aboriginal people are celebrating, then I wish them well. However, I am not celebrating and I will not celebrate until such time as our Aboriginal citizens have the same services, rights, opportunities and dreams that all Canadians should have.

• (1345)

I will not celebrate while infants born to Aboriginal parents are more likely to die than children born to non-Aboriginal parents. I will not celebrate while the lifespan of Aboriginals is on average

10 years less than that of the non-Aboriginal population of Canada. I will not celebrate while fewer Aboriginal children graduate from high school and fewer attend university than the rest of Canada's population. I will not celebrate when the hospitals of this nation have disproportionate numbers of Aboriginal children with very serious diagnoses and diseases often because they did not receive treatment early enough in their illness. I will not celebrate while the prisons of this country have a disproportionate number of Aboriginals, many of them incarcerated because of lack of adequate counsel providing them with appropriate defence. I will not celebrate when housing that would be condemned in any urban centre is considered adequate on reserves. I will not celebrate when on far too many reserves the residents cannot access potable water without boiling it — not on a temporary order but on a permanent basis. I will not celebrate until legitimate land claims have been settled. I will not celebrate until such time as Canadians, all Canadians, are treated equally, and this time has not yet arrived for our Aboriginal people.

#### ENVIRONMENTAL EFFECTS OF 2,4-D

**Hon. Mira Spivak:** Honourable senators, the herbicide 2,4-D is used extensively in North America. It is showing up in the Red River, north of Winnipeg, where residents use it on lawns and golf courses. Farmers in Manitoba, Alberta and Saskatchewan who have used it for prolonged periods are now suffering an increased incidence of prostate cancer. The U.S. military used it widely in Vietnam as one half of Agent Orange, the other half being 2,4,5-T, which was taken off the market in 1983. Canada's Pest Management Regulatory Agency is reviewing the safety of 2,4-D and, as an interim measure, has issued stricter stipulations on the use of the products that contain it. Studies have linked 2,4-D to birth defects, non-Hodgkin's lymphoma, lower sperm counts and higher sperm abnormalities. While I applaud the review and the interim caution, I would urge the agency to put the precautionary principle to work and permanently restrict the use of this highly suspect chemical.

While I am on my feet, I want to take this opportunity to congratulate the government for its agreement with the study on trans fats. It is my hope that a review of the percentages of trans fats in products is undertaken, to ensure that this is truly the best we can do.

#### NATIONAL ABORIGINAL DAY

**Hon. Larry W. Campbell:** Honourable senators, I rise today to add my voice to those of thousands of Canadians from sea to sea who are celebrating National Aboriginal Day. The achievements of Canada's Aboriginal peoples are astounding. After dealing with decades of institutional oppression and government-sponsored attempts at assimilation, it is simply miraculous that Aboriginal culture has remained intact and that contributions such as environmental philosophy, sustainable agricultural systems and various economic practices have endured.

Canadians have been blessed with countless cultural benefits, such as Aboriginal art, music, dance and oral histories, all of which become hallmarks of the Canadian image and are internationally celebrated.

I cannot understand why it is so difficult for governments of all political stripes to once and for all solve the issue of Aboriginal claims and to help to raise the Inuit, Metis and First Nations communities out of poverty. Canada has the tendency to rest on its laurels of assumed multiculturalism, but recent reports such as those from Amnesty International and the Standing Senate Committee on Aboriginal Peoples have pointed out how far we need to go as a country before we can claim that our Aboriginal population enjoys the same quality of life as non-Aboriginal Canadians.

As all honourable senators know, the Aboriginal community faces struggles in terms of health, education, economic opportunities, housing and infrastructure. In my humble opinion, it is a travesty that any segment of our population should be in dire straits. I sincerely feel that intergovernmental agreements and consultative approaches, such as the Kelowna accord, will make a huge difference in the lives of Canadian Aboriginals.

• (1350)

I have the honour and the privilege to work with a great group of senators on the Standing Senate Committee on Aboriginal Peoples, under the dedicated leadership of Senator St. Germain.

I hope we will be dealing with the Kelowna accord shortly so that we may begin to create a mutually beneficial dialogue between Aboriginals and all levels of government.

I ask all honourable senators on this day of the summer solstice to celebrate National Aboriginal Day and to join me in offering our best wishes for the celebrations of First Nations, Inuit and Metis Canadians. No one government can take responsibility for the position in which the Aboriginal peoples of Canada find themselves. It is our collective that has caused this and it will be our collective that gets us out of it.

As parliamentarians, we control the dialogue and, ultimately, the success of any dialogue. I call on all of us to take this responsibility very seriously.

[Translation]

**THE HONOURABLE PIERRETTE RINGUETTE  
THE HONOURABLE ROSE-MARIE LOSIER-COOL**

**COGRATULATIONS ON RECEIVING  
THE ORDER OF LA PLÉIADE**

**Hon. Grant Mitchell:** Honourable senators, allow me to congratulate two of our colleagues who have just received a well-deserved honour. The Ordre de la Pléiade is an international decoration awarded by the Assemblée parlementaire de la Francophonie to people who promote the values and the spirit of the Francophonie and the French language.

This year, Senator Ringuette was made an officer of the order. Senator Losier-Cool was also made an officer; she was invested as a knight in 2002. As parliamentarians, both work very hard to preserve the French language and culture in Parliament and in Canada.

Senator Ringuette was the first francophone woman from New Brunswick to be elected to both provincial and federal office. She sat in the provincial legislative assembly for six years and in the other place for four years.

Senator Losier-Cool is a great champion of the French language. She was the first female president of the Association des enseignantes et enseignants francophones du Nouveau-Brunswick and she has been a member of various boards and commissions to strengthen Canada's francophone community and the Francophonie in general.

Like all of you, I have a great deal of admiration for Senators Ringuette and Losier-Cool; as parliamentarians, they have worked to promote the French language and culture and they have done a marvellous job for New Brunswickers and all Canadians.

As an anglophone who wants to learn French, I salute senators Ringuette and Losier-Cool for their determination to preserve the French fact, which is so important to Canada's past and our future.

Please join me in congratulating our two honourable colleagues.

## **ROUTINE PROCEEDINGS**

### **STUDY ON ISSUES RELATING TO FISCAL BALANCES AMONG ORDERS OF GOVERNMENT**

#### **SECOND INTERIM REPORT OF NATIONAL FINANCE COMMITTEE TABLED**

**Hon. Joseph A. Day:** Honourable senators, I have the honour to table the seventeenth report of the Standing Senate Committee on National Finance on issues relating to the vertical and horizontal fiscal balances among the various orders of government in Canada.

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Day, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

• (1355)

[English]

### **BUDGET IMPLEMENTATION BILL, 2007**

#### **REPORT OF COMMITTEE**

**Hon. Joseph A. Day,** Chair of the Standing Senate Committee on National Finance, presented the following report:



Thursday, June 21, 2007

The Standing Senate Committee on National Finance has the honour to present its

#### EIGHTEENTH REPORT

Your Committee, to which was referred Bill C-52, An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2007, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOSEPH A. DAY  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Comeau, with leave of the Senate and notwithstanding rule 58(1)(a), bill placed on the Orders of the Day for third reading later this day.

#### GENEVA CONVENTIONS ACT ACT TO INCORPORATE THE CANADIAN RED CROSS SOCIETY TRADEMARKS ACT

#### BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Consiglio Di Nino,** Chair of the Standing Senate Committee on Foreign Affairs, presented the following report:

Thursday, June 21, 2007

The Standing Senate Committee on Foreign Affairs and International Trade has the honour to present its

#### FOURTEENTH REPORT

Your Committee, to which was referred Bill C-61, An Act to amend the Geneva Conventions Act, An Act to incorporate the Canadian Red Cross Society and the Trademarks Act, has, in obedience to the Order of Reference of Monday, June 18, 2007, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

CONSIGLIO DI NINO  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Comeau, with leave of the Senate and notwithstanding rule 58(1)(a), bill placed on the Orders of the Day for third reading later this day.

#### QUARANTINE ACT

#### BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Art Eggleton,** Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, June 21, 2007

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

#### NINETEENTH REPORT

Your Committee, to which was referred Bill C-42, An Act to amend the Quarantine Act has, in obedience to the Order of Reference of Monday, June 18, 2007, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

ART EGGLETON  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Comeau, with leave of the Senate and notwithstanding rule 58(1)(a), bill placed on the Orders of the Day for third reading later this day.

#### CITIZENSHIP ACT

#### BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Art Eggleton,** Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, June 21, 2007

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

#### TWENTIETH REPORT

Your Committee, to which was referred Bill C-14, An Act to amend the Citizenship Act (adoption) has, in obedience to the Order of Reference of Tuesday, June 19, 2007, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

ART EGGLETON  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Comeau, with leave of the Senate and notwithstanding rule 58(1)(a), bill placed on the Orders of the Day for third reading later this day.

**CRIMINAL CODE****BILL TO AMEND—REPORT OF COMMITTEE**

**Hon. David Tkachuk**, Deputy Chair of the Standing Senate Committee on Transport and Communications, presented the following reports:

Thursday, June 21, 2007

The Standing Senate Committee on Transport and Communications has the honour to present its

**THIRTEENTH REPORT**

Your Committee, to which was referred Bill C-59, An Act to amend the Criminal Code (unauthorized recording of a movie), has, in obedience to the Order of Reference of Monday, June 18, 2007, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

**DAVID TKACHUK**  
*Deputy Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Comeau, with leave of the Senate and notwithstanding rule 58(1)(a), bill placed on the Orders of the Day for third reading later this day.

• (1400)

[Translation]

**OLYMPIC AND PARALYMPIC MARKS BILL****REPORT OF COMMITTEE**

**Hon. W. David Angus**, Deputy Chair of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, June 21, 2007

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

**TWENTIETH REPORT**

Your Committee, to which was referred Bill C-47, An Act respecting the protection of marks related to the Olympic Games and the Paralympic Games and protection against certain misleading business associations and making a related amendment to the Trade-marks Act, has, in obedience to the Order of Reference of Tuesday June 19, 2007, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

**W. DAVID ANGUS**  
*Deputy Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Comeau, bill placed on the Orders of the Day for consideration later this day.

**CANADIAN NATO PARLIAMENTARY ASSOCIATION****PARLIAMENTARY TRANSATLANTIC FORUM,  
DECEMBER 11-12, 2006—REPORT TABLED**

**Hon. Pierre Claude Nolin:** Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the Report of the Canadian Parliamentary Delegation to the Parliamentary Transatlantic Forum, held in Fort McNair, Washington D.C., December 11 to 12, 2006.

**JOINT MEETING OF DEFENCE AND SECURITY,  
ECONOMICS AND SECURITY, AND POLITICAL  
COMMITTEES AND ANNUAL ECONOMICS  
AND SECURITY COMMITTEE MEETING,  
FEBRUARY 18-22, 2007—REPORT TABLED**

**Hon. Pierre Claude Nolin:** Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the NATO Parliamentary Association regarding its participation in the joint meeting of the Defence and Security Committee, the Economics and Security Committee and the Political Committee, held in Brussels, Belgium, from February 18 to 20, 2007, and the annual consultation of the Economics and Security Committee with the OECD and the NATO Parliamentary Assembly, held in Paris, France, from February 21 to 22, 2007.

**CANADA-EUROPE PARLIAMENTARY ASSOCIATION****ORGANIZATION FOR SECURITY  
AND CO-OPERATION IN EUROPE, WINTER MEETING,  
FEBRUARY 23-27—REPORT TABLED**

**Hon. Pierre Claude Nolin:** Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the Canada-Europe Parliamentary Association regarding its participation in the winter meeting of the Parliamentary Assembly of the Council of Europe, held in Vienna, Austria, from February 22 to 23, 2007.

• (1405)

**NATIONAL FINANCE****NOTICE OF MOTION TO AUTHORIZE COMMITTEE  
TO EXTEND DATE OF FINAL REPORT ON STUDY  
OF ISSUES RELATING TO FISCAL BALANCES  
AMONG ORDERS OF GOVERNMENT**

**Hon. Joseph A. Day:** Honourable senators, I give notice that at the next sitting of the Senate, I will move:

That, notwithstanding the Order of the Senate adopted on Wednesday, September 27, 2006, the Standing Senate Committee on National Finance authorized to examine and report on issues relating to the vertical and horizontal fiscal



balances among the various orders of government in Canada be empowered to extend the date of presenting its final report from June 30, 2007 to December 31, 2007; and

That the Committee retain until February 15, 2008, all powers necessary to publicize its findings.

## QUESTION PERIOD

### INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

#### KELOWNA ACCORD—UNITED NATIONS DECLARATION ON RIGHTS OF INDIGENOUS PEOPLES

**Hon. Céline Hervieux-Payette (Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government in the Senate. Growing poverty, deterioration of infrastructure, contamination of drinking water sources, isolation and high dropout rates are only some of the problems faced by the Aboriginal peoples of Canada.

A recent United Nations report ranked Canada 48th out of 174 countries for its treatment of Aboriginal peoples. The UN special rapporteur Rodolfo Stavenhagen views this situation as the most pressing human rights issue faced by Canada.

The previous Liberal government had taken action in this regard. An agreement was signed by the federal government, the provincial and territorial governments and the Assembly of First Nations. The agreement provided stable funding, which would have tackled these urgent problems immediately and effectively.

On this National Aboriginal Day, can the government assure us that the terms of the agreement entered into by the various parties, and set out in writing in the Kelowna Accord, will form part of the government's agenda and that very soon we will see a comprehensive policy to alleviate the problems faced by Aboriginal peoples in this country?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I wish to thank the honourable senator for that question.

I want to join with my colleagues in the Senate, in particular, my colleague Senator St. Germain, in marking National Aboriginal Day.

The honourable senator cited the Kelowna accord in her question. It was not an accord but a statement of intent committed to in the last days of the Martin government. There is no fiscal framework attached to the "Kelowna press release," as I call it. I am happy to say, honourable senators, we in the government take issues of concern to Aboriginals seriously. Jim Prentice, Minister of Indian Affairs and Northern Development, not only talks the talk but walks the walk. Honourable senators, it is generally acknowledged that Mr. Prentice and the government have done more for Aboriginals in 16 months than has been done in many years.

• (1410)

I will outline a few of those things, if you will permit me: finalizing the residential school agreements; announcing plans last week to fundamentally change the way specific claims are handled in Canada; providing \$33 million over three years to the National Association of Friendship Centres for urban Aboriginal youth programs, as announced by Minister Oda on June 18; improving educational opportunities for First Nations by passing Bill C-34, the First Nations Jurisdiction over Education in British Columbia Act; making progress on the March 2006 action plan for safe drinking water on reserves committing \$300 million in Budget 2006 for Aboriginal and Northern housing; \$300 million in Budget 2007 to develop individual property ownership on reserves; setting aside funds to more than double the size of Aboriginal skills and employment partnership initiatives; establishing on-reserve pilot projects for patient wait time guarantees in prenatal and diabetic care; and launching a national consultation process on the issue of matrimonial real property on reserves.

**Senator Mercer:** However, you did not honour the accord. That is right.

[Translation]

**Senator Hervieux-Payette:** I want to thank the Leader of the Government in the Senate for this long list of initiatives that are certainly commendable, but not consistent with the spirit of a comprehensive agreement that will give our Aboriginal peoples the opportunity to become autonomous.

In that spirit, I am asking her today whether her government will ratify the Declaration on Rights of Indigenous Peoples as soon as possible, since a cloud remains over this agreement, which was initiated by Canada and by which many members of the various Aboriginal communities were inspired. These people, and all Canadians, are impatiently waiting for Canada to commit to signing the Declaration on Rights of Indigenous Peoples.

[English]

**Senator LeBreton:** I thank the honourable senator for her question.

No previous Canadian government has ever supported the document in its current form, as she knows, because the wording is inconsistent with the Canadian Charter of Rights and Freedoms, the Constitution Act, previous Supreme Court of Canada decisions, the National Defence Act and the policies under which we negotiate treaties.

Last November, at the United Nations, over 80 countries passed an African amendment seeking time for additional consultations. Our government continues to seek ways to improve the declaration so that we have one that works for Canada.

**Hon. Roméo Antonius Dallaire:** Honourable senators, I have a question for the Leader of the Government in the Senate.

Last June there was an article in *The Globe and Mail* that spoke about the fact that, through access to information, it was found that recommendations from the Ministry of National Defence,

the Ministry of Foreign Affairs and the Ministry of Indian Affairs had recommended that Canada sign the United Nations Declaration on Rights of Indigenous Peoples on May 29, 2006.

It is interesting that Canada and Russia, out of 47 countries, were the only two that did not sign. More interesting, Canada had been the dominant country in pushing for that declaration to come about. In fact, at the last minute, we changed our mind. Instead of supporting that declaration, Canada did not even have the decency to abstain, we voted against it.

Could the Leader of the Government in the Senate tell us why the recommendations were not supported by the government and its representatives in Geneva? Surely it is not because Prime Minister Howard, a fairly right-wing chap and not in favour of this subject, had visited our Prime Minister the day before, and certainly not because Canada is being perceived as a lackey of the Americans who do not have the guts to put their name onto the commission and might have been influencing Canada in its decision.

**Senator LeBreton:** Honourable senators, I wish to thank the honourable senator for his question.

The comments with regard to the Prime Minister of Australia and the United States are unfair, false and not worthy of comment.

The fact is that the only organization that has reversed its position is the Liberal Party now in opposition. As I pointed out in my last answer, no previous government, Liberal or Conservative, of this country has supported this declaration in its present form.

• (1415)

The fact is it is not consistent with the Canadian Charter of Rights and Freedoms, our Constitution or previous Supreme Court of Canada decisions. As I indicated in my last answer, the fact that 80 countries passed an African amendment to seek additional consultation on this document indicates a desire to seek some resolution.

Given that Senator Dallaire is so interested in human rights issues, it would be my hope that he would urge his colleagues in the other place as well as here to support Bill C-44, which repeals section 67 of the Canadian Human Rights Act. Our government believes that First Nations citizens on reserves should have equal access to human rights protection, the same as every other Canadian. I would urge Senator Dallaire and his colleagues, both here and in the other place, to support that very important piece of legislation.

[Translation]

## NATIONAL DEFENCE

### AFGHANISTAN—PROMOTION OF MISSION

**Hon. Roméo Antonius Dallaire:** I want to thank the honourable Leader of the Government in the Senate. Her response is duly noted. We have to acknowledge, however, that it was under the Liberal Party that officials gave their support to this process. They instigated the process that led to the vote that was held in June 2006.

Honourable senators, I would like to draw your attention to the painting on the far right-hand side of the Senate chamber of a scene from World War I. It depicts a landing of armed troops, most of whom left Canada from the ports of Quebec City or Halifax.

Since the Boer War, Quebec City has served as a garrison and mobilization centre. Troops have always paraded the streets of that city before going overseas to fulfill the mission entrusted to them by the government of ensuring peace and defending human rights.

Would it be possible to reinstate this old military parade tradition in Quebec City tomorrow evening? Would it be possible to explain to Quebecers the virtues of this mission in Afghanistan and set the record straight?

What voice do you have in Quebec to properly explain this aspect of the mission in order to change the attitude of the province of Quebec?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for his question; however, I would turn the question back on the senator. The Vandoos are a historical and great regiment of the Canadian military. I would urge the honourable senator to use the great speech he just gave to try to convince people on his own side, his colleagues in his party, about the importance of this mission, how important it is not only for the people of Afghanistan but also for our commitment to our partners in the world, in NATO and under the UN.

I can add nothing to the honourable senator's eloquent remarks, other than that he will have no trouble convincing people on this side of the merits of that ceremony. To this point in time, people on this side have not been the problem.

**Senator Dallaire:** That is rather interesting, because the government — of which the government leader is a member — are the ones who are supposed to be selling the product, explaining the mission to the Canadian people. If the opposition has a divergent point of view, that is up to them. In fact, the opposition has been supportive of that initiative. Our leader, in fact, will be there tomorrow night.

**Senator Fortier:** He should run in Quebec City.

**Senator Dallaire:** I am looking for a reason, an explanation of the mission. I am looking for an explanation as to why we are prepared to take those casualties and why it is important that we help a nascent democracy, an affirmation that human rights are for all humans, not just Canadians who can afford it. Why has it not been a dominant theme on the government's part in the province of Quebec to bring Quebecers online? That responsibility belongs to the Leader of the Government in the Senate and her leader, but it has not been done significantly to change the attitude there.

**Some Hon. Senators:** Hear, hear.



• (1420)

**Senator LeBreton:** I am surprised that a person of such high military standing as the honourable senator would say that. This is not a partisan issue. It is not the responsibility of one particular party or the other. It is the responsibility of all of us — all Canadians.

**Some Hon. Senators:** Shame.

**Senator Mercer:** You are not responsible; we know that.

**Senator LeBreton:** This government, for the last year and a half, has shown great commitment to our military and our obligations in Afghanistan. There is no argument about that. We have properly equipped the military; recruitment is up. We have done everything and more as a government to support our military and the mission in Afghanistan.

This issue is important to all Canadians. It is important to stand up with our NATO allies in this UN-led mission. It is important that everyone, no matter where they live in the country, support the mission.

We are doing excellent work in Afghanistan, as honourable senators know. I would hope that all people support it, no matter who they are, what party they support or what part of the country they are from.

## INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

### LAND CLAIMS PROCESS

**Hon. Gerry St. Germain:** Honourable senators, this question is in relation to Senator Dallaire's first question about Canada's Aboriginal Peoples and the UN declaration on indigenous peoples.

Honourable senators, we have tried to maintain a non-partisan view on this particular file. I am not casting aspersions or doubts at this time, but it is critical that the importance of consistency and the importance of our Constitution not be impeded in any way. That is borne out by Senator Watt's concerns about Nunavik with respect to non-derogation and the application of sections 25 and 35 of the Constitution Act, 1982.

I listened to Senator Hervieux-Payette and Senator Campbell make celebratory remarks about National Aboriginal Day. I would not want any senator to feel that we cannot celebrate. When Senator Carstairs rose, she left a feeling in this place that we were celebrating in spite of the great challenges that all Canadians face with regard to dealing with our Aboriginal Peoples.

I do not think it is a partisan thing; I think all governments have failed for the last 140 years.

**Senator Tardif:** Question!

**Senator St. Germain:** We have taken a new direction. The government is trying, the former government tried and we are all trying. Let us not undermine a great effort. Let us give the present government support and let us give the same support to whoever governs next.

Given the initiative that has gone through cabinet to deal with the injustices — and if we do not deal with the injustices, how can we deal with anything — does the Leader of the Government in the Senate feel confident that this particular initiative to settle the huge injustices in land claims will progress as it should?

**Senator Rompkey:** Yes or no?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I wish to thank the honourable senator for that question. As the minister and the Prime Minister have said publicly, there is no question that government after government have failed to address this problem. We can talk specifically about the land claims issue. They have not dealt with legitimate, historical claims to land. This initiative is an acknowledgement that this must stop.

• (1425)

I can tell the honourable senator with great confidence that the announcement of the Minister of Indian Affairs and Northern Development is a great step forward. By the way, Senator St. Germain had a great deal to do with it. It was announced that the whole method of dealing with land claims will change. The amount of \$250 million has been set aside on an annual basis for the next 10 years to deal with these land claims directly so that First Nations do not have to go through the process that they had to in the past. I think that has been acknowledged by many Aboriginal leaders across the country.

I feel proud to be part of this government and proud to have an acknowledgement from the Prime Minister and the Minister of Indian Affairs and Northern Development that, yes, these are legitimate claims that have been left unsettled for too long, and we will make every effort to change that.

### CUTTING OF ASSISTANCE PROGRAMS

**Hon. Charlie Watt:** Honourable senators, I am happy to rise on National Aboriginal Day. We are talking about injustices to the Aboriginal people across the country. Several attempts have taken place over the years to correct those injustices. From time to time, I have participated in those efforts.

My questions are for the Leader of the Government in the Senate. First, various programs that were cut related to matters that are quite important to us, such as the \$155 million for the Task Force on Aboriginal Languages and Cultures. Down the road, will we be able to revisit that funding?

Second, \$17.7 million was removed from adult training and literacy skills training programs widely used by Aboriginal people. These were important programs and will be missed a great deal by the Aboriginal people.

My third question is also very important to the Aboriginal people of this country and to the country as a whole. It concerns the \$5.6 million that was taken from the Law Commission of Canada for the study of Aboriginal legal traditions and how to implement them into the mainstream justice system.

Could I have an answer to those questions, minister? I know for a fact these programs are not contained in the budget implementation bill, but there is no reason why we cannot

revisit those important programs. Will we ever see them again? If the honourable leader cannot give a precise answer, because it is hard to give a clear answer as to whether or not they will be resurrected, would she be able to make recommendations to ensure that those programs, which are important to us, will be restored?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I would have to take the questions on the specific programs referenced by the Honourable Senator Watt as notice. It is clear in terms of the work that the Minister of Indian Affairs and Northern Development has done that we have embarked on many programs in support of Aboriginal communities, as I mentioned in my answer to Senator Hervieux-Payette. One that I mentioned was the \$33 million over three years to the National Association of Friendship Centres for urban Aboriginal youth programs.

• (1430)

To cite specific programs that may or may not be continued does not present the true picture. Considerable funds and considerable effort are being put into Aboriginal programs at the level where they really affect people. Programs range from housing to ensuring clean water.

The fact that one program that may have been in place is no longer funded does not mean that the government does not have other priorities or issues. Many programs that we embarked upon as a government were embarked upon after consultation with Aboriginal leaders.

I will make inquiries about the specific programs the honourable senator has raised, as to whether a parallel program is taking over or whether they fit into other programs. However, I think it is clear that on all fronts — specific claims, residential schools, human rights issues, the state of the communities, education, health, quality of water and housing — in 16 months, the Minister of Indian Affairs and Northern Development, on behalf of the government, has made great strides.

This morning, I happened to be party to comments by Aboriginal leaders from across the country, who have shown great support to the minister for the initiatives he is taking on behalf of the Aboriginal people. As I said in this place some time ago, so important is Minister Prentice to the Aboriginal people that at the beginning of the year, when there was speculation that he may be shuffled out of that cabinet position into another, the leadership, including Phil Fontaine, publicly urged the Prime Minister not to move Minister Prentice. That is how impressed they are by his support of the Aboriginal communities.

#### KELOWNA ACCORD

**Hon. Sandra Lovelace Nicholas:** My question today is to the Leader of the Government in the Senate. As the honourable senator knows, today is National Aboriginal Day, but because of the lack of support by the government for the Kelowna accord, we have no reason to celebrate. We are still fighting for our rights.

When will this government take a serious look at the poor conditions of First Nations people? When will this government address the poverty of the poorest of the poor in Canada?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for her question, and I join her in celebrating this historic day.

With regard to the meetings in Kelowna in November 2005, the Minister of Indian Affairs and Northern Development, Mr. Prentice, was at those meetings, as the opposition critic at the time on these issues. Again, I point out that everyone would support the aims and principles of Kelowna. I hasten to say that Minister Prentice, by his actions and by the answers to previous questions in this place, is committed to improving the conditions of all our Aboriginal communities and has shown that commitment.

• (1435)

With announcements on housing, clean water, wait times and diabetes in health care, education, and land claims, the minister has made great strides in 16 months for the benefit of our Aboriginal citizens, so much so that many Aboriginal leaders have applauded the minister for his actions.

#### INDIAN RESIDENTIAL SCHOOLS SETTLEMENT AGREEMENT—APOLOGY TO VICTIMS

**Hon. Lillian Eva Dyck:** My question to the Leader of the Government in the Senate has to do with the Indian Residential Schools Settlement Agreement. I would like the Leader of the Government in the Senate to explain to honourable senators why this government will not apologize to Aboriginal people who attended residential schools.

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for her question. As honourable senators know, on May 10, 2006, the government announced the Indian Residential Schools Settlement Agreement and, at the same time, the Truth and Reconciliation Commission. These settlements are in progress, and no doubt some awful stories will be heard by the Truth and Reconciliation Commission. An apology was not part of the agreements when they were signed, but the Truth and Reconciliation Commission was set up in order to give people an opportunity to express properly what they went through.

#### THE SENATE

##### TRIBUTE TO DEPARTING PAGES

**The Hon. the Speaker:** Honourable senators, today we will be saying farewell to the remaining four departing pages.

[Translation]

It is with much emotion that Éric Carpentier leaves the Senate to take on new challenges. This fall, he will begin graduate studies at McGill University in an inter-disciplinary M.B.A. and M.D. program. Éric is very grateful to have had the privilege of representing Quebec for two years in the Senate Page Program.

[English]

Patrick Weeks, from the community of Alberton, Prince Edward Island, is grateful to have served as a page in the Senate of Canada this past year. He intends to continue his second year of studies in political science at the University of Ottawa and hopes to continue working on Parliament Hill.



After three years in the Senate Page Program, our Deputy Page, Brad Ramsden, from Kelowna, British Columbia, is bidding farewell to the Senate of Canada. He is grateful for his experience and to have worked with such a wonderful team. Brad has graduated from the University of Ottawa with honours in international development and globalization. He plans on volunteering and working abroad as well as pursuing his studies in international law next year.

Finally, our Chief Page, Sarah Fredriksen, from Brampton, Ontario, is bidding farewell to the Senate of Canada after three years in the Senate Page Program. Sarah, as we all know, is grateful and honoured to have led this remarkable team of young leaders. Sarah is graduating from Carleton University with a bachelor's degree in public affairs and policy management. She looks forward with excitement to her upcoming wedding this summer and plans to pursue graduate studies in the field of public policy. To Sarah, we extend congratulations and all good wishes.

• (1440)

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, pursuant to rule 27(1), I would like to inform the Senate that when we proceed with government business, the Senate will address the items in the following order: Motion No. 2, followed by third reading of Bill C-14, as ordered earlier this day; third reading of Bill C-47, as ordered earlier this day; third reading of Bill C-61, as ordered earlier this day; third reading of Bill C-42, as ordered earlier this day; third reading of Bill C-59, as ordered earlier this day; and third reading of Bill C-52, as ordered earlier this day, followed by other items according to the order in which they appear on the Order Paper.

#### CONDUCT OF BUSINESS ON FRIDAY, JUNE 22, 2007—MOTION ADOPTED

**Hon. Gerald J. Comeau (Deputy Leader of the Government),** pursuant to notice of June 20, 2007, moved:

That, notwithstanding any Rules or usual practices, at 10:00 a.m. on Friday, June 22, 2007, the Speaker shall, upon the request of the Leader of the Government in the Senate and the Leader of the Opposition in the Senate, interrupt any proceedings then before the Senate and proceed to put forthwith and successively, without further debate, amendment, or adjournment, any and all questions necessary to dispose of any bills *seriatim* that then stand on the Orders of the Day for third reading, whether or not motions for third reading of those bills have been moved;

That, in the case of any bill that has not been moved for third reading, the sponsor may move third reading when the bill is called and the question shall then be put without debate but, if the sponsor does not move third reading, the bill shall not fall under the terms of this order;

That no motion to adjourn debate, to adjourn the Senate, or to take up any other item of business shall be received, nor shall any points of order or questions of privilege be taken up until all bills falling under this order have been disposed of;

That all Rules relating to the deferral of votes shall be suspended until all bills falling under this order have been disposed of;

That, if a standing vote is requested, the bells to call in the Senators shall ring only once and for 15 minutes, without the further ringing of the bells in relation to any subsequent standing votes requested under this order; and

That all Rules relating to the time of automatic adjournment of the Senate be suspended for the entire sitting and, when all bills falling under this order have been disposed of, the Senate shall resume business from the point it was interrupted and continue through remaining items on the *Order Paper and Notice Paper* until completed, at which time, if necessary, the Speaker shall suspend the sitting at pleasure, with the bells to ring for 15 minutes prior to resuming the sitting, for the purpose of receiving a message respecting Royal Assent to bills.

He said: Honourable senators, I am sure everyone had an opportunity to read the motion I gave notice of yesterday, so they probably have a few questions on it.

Following yesterday's notice of motion, I learned that a traditional Royal Assent ceremony would be held in the chamber at noon tomorrow. To ensure that there is time to take all necessary steps to ready bills for Royal Assent prior to the arrival of Her Excellency the Governor General, including informing the other place, it would be helpful if the voting period were to begin a little earlier.

Following discussions with the Deputy Leader of the Opposition, we have agreed that 9:30 a.m. would be a satisfactory starting time for the votes to begin. Accordingly, I seek to modify the motion to change the time for the start of the voting period from 10 a.m. to 9:30 a.m.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**Senator Comeau:** Honourable senators, this motion seems complicated and contains somewhat technical language. However, the intent of the motion is both clear and simple. The motion arises from discussions between the government and the opposition. It is an appropriate way to deal with the business before this chamber and it is not without precedent.

This particular motion simply requires that all votes necessary to dispose of each bill that has been moved at third reading will be taken, without delay, beginning tomorrow at 9:30 a.m., as earlier agreed to.

The time for the first vote is fixed by the terms of the motion. If a standing vote is requested for any of the votes, there will be a 15-minute bell for that vote, but there will not be bells for any subsequent standing votes.

If either the Leader of the Government in the Senate or the Leader of the Opposition in the Senate is not satisfied with matters as they stand before the first vote on Friday, the leader can so indicate and the motion will not take effect.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, Senator Comeau has explained that this motion would allow us to deal in a rational fashion before the summer adjournment with those pieces of legislation now in the Senate that are at the final stages of consideration.

[Translation]

Even if this motion is adopted and the votes take place as planned tomorrow, there will still be at least seven government bills, four Commons public bills and 15 Senate public bills on the Order Paper.

The agreement does not mean that we will be clearing the Order Paper. We will certainly have a lot of work left to do when we come back in the fall.

[English]

In the meantime, I recommend the adoption of this motion because it brings a measure of certainty to the work of this chamber and to important legislation that is at third reading stage.

Many have spoken of late of the days when the Senate was less partisan and when it considered, above all else, the interests of the Canadian people. I urge honourable senators to adopt this motion, thus demonstrating to everyone that this collegial and non-partisan spirit still exists in the Senate and that we, as legislators, can rise above the fray and act in the best interests of the Canadian people.

**Hon. Terry M. Mercer:** Honourable senators, I rise on this motion to remind us all of discussions we have had at this time of the year every year since I have been here, which has been a short period of time. Usually, it is the opposition who complains that bills from the other place come here late — in particular, important bills such as Bill C-52, and we are asked to give this legislation due consideration and examine it in the fashion to which we have grown accustomed, in detail. Then we are told they want it done in this time period so we can get out of here by a certain time, or that there are other requirements because things will fall off the table if we do not do it within this time period.

I remind everyone here about that, particularly the government members, because it was not too long ago that they were standing in my place giving these same remarks to this chamber when the previous government did the same thing. This problem is an institutional one that we all must take back to our caucuses — to the government caucus and the opposition caucus, which will soon be the government caucus.

We need to change this practice. This place works well when we are given time to do our work. This place does not work well when we are given bills and are asked to produce results in a short period of time.

**Hon. Tommy Banks:** Honourable senators, I absolutely concur with what Senator Mercer has said. We have taken that issue to our caucus when the government was on this side and the same situation obtained.

I have a question to ask of the Deputy Leader of the Government, or of His Honour, I am not sure which. I have carefully read the notice of motion that the deputy leader presented yesterday and I think I understand it. My impression is that if we vote on it, it would become, in effect, an order of the house. However, in his remarks a moment ago, which I do not have before me, the deputy leader said something that is not contained within the motion, which is that it could be stopped or abrogated by the leadership on either side. I am not sure if I heard that correctly. Is that, in fact, part of the motion and does such a codicil have effect. How will that work?

**Senator Comeau:** I thank the honourable senator for the question. The first line of the motion reads:

... notwithstanding any Rules or usual practices, at 10:00 a.m. on Friday, June 22, 2007, the Speaker shall, upon the request of the Leader of the Government in the Senate and the Leader of the Opposition in the Senate, interrupt any proceedings. . .

It means that if either the leader on this side or the leader on the other side informs His Honour that this house order is rescinded, that will stop it and the house order is gone.

**Hon. Wilfred P. Moore:** The deputy leader has indicated the Leader of the Government in the Senate or the Leader of the Opposition in the Senate informs His Honour. This motion reads both. Is it “or” or “and,” the two of you together?

**Senator Comeau:** It is and/or.

**Senator Moore:** So it is either one of you or the two of you together.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion as modified agreed to.

• (1450)

## CITIZENSHIP ACT

### BILL TO AMEND—THIRD READING

**Hon. Consiglio Di Nino** moved third reading of Bill C-14, to amend the Citizenship Act (adoption).

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.



## OLYMPIC AND PARALYMPIC MARKS BILL

### THIRD READING

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors))** moved third reading of Bill C-47, respecting the protection of marks related to the Olympic Games and the Paralympic Games and protection against certain misleading business associations and making a related amendment to the Trade-marks Act.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

## GENEVA CONVENTIONS ACT ACT TO INCORPORATE THE CANADIAN RED CROSS SOCIETY TRADE-MARKS ACT

### BILL TO AMEND—THIRD READING

**Hon. Janis G. Johnson** moved third reading of Bill C-61, to amend the Geneva Conventions Act, to incorporate the Canadian Red Cross Society and the Trade-marks Act.

**Hon. Yoine Goldstein:** Honourable senators, let me first congratulate the sponsor in this chamber of this bill, an act to implement the Third Protocol to the Geneva Convention. A few days ago, Senator Johnson delivered an outstanding speech, clear in its expression and convincing in its content. It would, therefore, be presumptuous of me to try to add to what she said. There is, however, a side bar to this bill of which Canadians should be justly proud.

Honourable senators will recall that this bill provides for the ratification by Canada of the Third Protocol to the Geneva Convention with respect to the Red Cross. The Third Protocol establishes an additional symbol to identify the national members of the Red Cross. There are, as honourable senators know, two symbols: the Red Cross, which is so familiar to us, and the Red Crescent, which Muslim countries use to identify their equivalent of the Red Cross. There is a third symbol, which is recognized but not used, and that is the red lion and the sun.

The use of these symbols prevented the use by Israel of its symbol for its equivalent: the Magen David Adom, the Jewish Star of David or Shield of David, in red.

Since 1948, Israel had sought, in vain, to have its symbol recognized for identifying the humanitarian vehicles and other manifestations of the work of Israel's equivalent to the Red Cross, the Magen David Adom, to identify these symbols of humanitarian intervention.

The International Red Cross operates effectively by consensus, and a block of nations that were and still are members of the International Red Cross consistently refused to allow Israel full membership rights and the use of its own humanitarian symbol. Obviously, Israel could not appropriately use either a cross or a Red Crescent to identify itself.

The opposition was consistent for decades, as Senator Grafstein, I and a number of others worked with the Canadian Red Cross Society to have it take the lead in inducing the opponents of Israel's full status to relent and recognize the non-partisan nature of the Red Cross movement.

Recently, with the help of other like-minded nations, including especially the United States and many European countries, the efforts of Canada and those other countries prevailed, as a result of which the International Red Cross, in an act of outstanding finesse best understood by bridge players, adopted a new symbol, the Red Crystal. The symbol is the red outline of a box standing on edge.

Honourable senators, this is a neutral and readily identifiable symbol clearly devoid of any religious or political connotation. Its adoption has taken more than 50 years.

The Third Protocol to the Geneva Convention provides for non-obligatory use of the Red Crystal by those nations who wish to use it, coupled with the use, if the relevant nation so wishes, of a further identifiable symbol within the Red Crystal. The result is that those countries wishing to use the Red Crystal without anything further may do so; those who wish to use the Red Crystal with the Red Cross inside it may do so; those who wish to use a Red Crescent within the crystal may do so; and the country that wishes to place a red Star of David within the crystal may do so.

The states opposing this very effective and creative solution with respect to Israel's exclusion were assuaged by the fact that the same protocol recognizes the Palestinian Red Crescent even though Palestine is not yet a country.

All in all, as a result of these efforts, predominantly by Canadians and Canada, an irritant in international relations has been creatively resolved. The bill provides for ratification by Canada of the protocol. It will enhance the effectiveness of the Red Cross movement in responding to conflicts and international disasters worldwide, and it will speak to the universal nature of the Red Cross Movement.

Canada signed the protocol on June 9, 2006. In ratifying the protocol, as this legislation does, we would be implementing Canada's commitment to ratify the protocol as soon as possible, and we will be able to provide a source of pride for Canada at the November International Conference of the Red Cross Movement. It will also position Canada to continue to make a difference in international affairs and maintain momentum toward the universal recognition of the Red Crystal.

Honourable senators, I respectfully urge you to pass this bill by unanimous vote, thereby making a statement supporting the universality and ongoing significance of the Red Cross Movement and its neutrality, which is so essential to the functioning of its excellent humanitarian endeavours.

**Senator Johnson:** Honourable senators, I want to thank the members of the Standing Senate Committee on Foreign Affairs and International Trade for their consideration and expedient adoption of Bill C-61, an act to implement the Third Additional Protocol to the Geneva Convention.

I will conclude my remarks on the bill by saying that this legislation generated a great deal of interest at yesterday's meeting with Minister MacKay, and I believe it speaks to our shared traditional humanitarian values and to our commitment to the Red Cross Movement which endeavours to uphold those values in helping the less fortunate around the world.

Time is of the essence to pass this legislation, and the government would like to demonstrate Canada's continued leadership on an issue of great importance to the unity of the Red Cross Movement.

As I said before, the Third Protocol establishes the Red Crystal as an additional distinctive emblem meant to be free of extraneous religious or political connotation. This is significant because it provides an alternative to national societies that would rather not use either the Red Cross or Red Crescent emblem. Those societies can now benefit from the protective purpose of a third distinct emblem. The Third Protocol precisely seeks to enhance the universality and impartiality of the Red Cross Movement — two of its fundamental principles.

For example, it facilitated the entry into the movement of the Magen David Adom — the Israeli Society — and the Palestinian Red Crescent Society in June 2006. The National Societies of Eritrea and Kazakhstan have indicated interest in using the Red Crystal.

Distinctive emblems are important. They are meant to protect humanitarian workers of the movement who provide critical assistance to people affected by conflicts and natural disasters, and ultimately to protect the people they assist.

• (1500)

However, the protective purpose of the emblems depends on their broad recognition. This is why it is important to maintain the momentum towards the universal recognition of the Red Crystal.

Protocol III was adopted in December 2005 and entered into force last January 14. Since that time, 84 states have signed, but only 17 states have ratified to date. In order to encourage broad international acceptance of the Red Crystal emblem, which we discussed at length yesterday, it is essential that as many states as possible ratify Protocol III.

The International Conference of the Red Cross and the Red Crescent Movement will be held in November, in Geneva, and it represents a key opportunity to promote the Red Crystal. This conference occurs once every four years and brings together all parts of the movement. Canada has an important opportunity to demonstrate real leadership on this issue in November. The timely passage of Bill C-61 is an important step in this regard. Canada signed Protocol III a year ago, thereby undertaking publicly to pass legislation to ratify the protocol. It is our hope that this bill is passed in time to enable Canada's ratification before the November conference.

Timely ratification would also allow Canada to advocate for wider acceptance of the Red Crystal from a position of international leadership. It would facilitate our efforts to bring states on board who continue to have reservations and would allow us to join with like-minded countries.

Speedy passage of Bill C-61 is a priority for the government and speaks to Canada's commitment to international humanitarian law and to the Red Cross and Red Crescent movement worldwide. I am asking for the leadership and commitment of honourable senators to consider this issue expeditiously.

[Translation]

**Hon. Eymard G. Corbin:** Honourable senators, I feel that everything has been said and well said on the subject. We can now proceed to the vote.

[English]

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

## QUARANTINE ACT

### BILL TO AMEND—THIRD READING— DEBATE ADJOURNED

**Hon. Wilbert J. Keon** moved third reading of Bill C-42, to amend the Quarantine Act.

**Some Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

On motion of Senator Tardif, debate adjourned.

## CRIMINAL CODE

### BILL TO AMEND—THIRD READING— DEBATE ADJOURNED

**Hon. Janis G. Johnson** moved third reading of Bill C-59, to amend the Criminal Code (unauthorized recording of a movie).

She said: Honourable senators, I am pleased to speak again on Bill C-59, to amend the Criminal Code (unauthorized recording of a movie). As you know, this bill seeks to prevent the unauthorized recording of a film in Canada as well as the distribution of any film obtained by these illegal means. It is a great bill, and I give it "two thumbs up." The proposed legislation is a great start. The unauthorized recording of films should not be permitted in Canada — quite simply, it is theft.

Industry figures show that 90 per cent of illicit copies in circulation come from camcording in movie theatres. This bill will have a significant effect on illicit copies. This kind of crime has been facilitated by the miniaturization of recording devices. Everyone has a camcorder or knows someone who has. This technology has been put to a criminal purpose. These proposed provisions of the Criminal Code will put a stop, or hope to put a stop, to this kind of practice.



There is an advantage to placing the activity of "simple camcording" and "camcording with a purpose" under the Criminal Code rather than having it as part of the Copyright Act. The police are more familiar with and are in the business of enforcing the Criminal Code. Making this type of activity a Criminal Code offence will have a considerable effect; it will ensure the crime will be prosecuted.

The government believes that this proposed legislation will curb or stop any other kind of illicit activity associated with the unauthorized recording of films. Without having illicitly recorded the film, none of the other steps can take place. It cannot be unloaded via the Internet to a confederate in another part of the world where copies will be run off on an industrial scale and be marketed in one of the countries where the movie has not yet come out.

As I mentioned before, our country has been accused of being responsible for half of the pirated films in global circulation. The Minister of Justice has clarified this point, and I understand that approximately 20 to 25 per cent of illegally camcordered films originate in Canada and that 70 per cent of those come from Montreal. That is 70 per cent of the 20 to 25 per cent.

Illegal camcording in movie theatres is a problem. It is threatening our ability to receive access to timely new releases from Hollywood studios. The motion picture industry is geared toward a distribution model heavily reliant on building interest in the first release. The fact is that under this distribution model, the release in the North American market is typically around four months ahead of its release in other parts of the world. It is critical that we have some protection when movies are first released. That applies to Canadian films as well.

It is estimated that approximately \$118 million is lost due to movie piracy in this country. That is a lot of money. By passing Bill C-59, Canada will be in a league with countries such as Japan and the United States. Apparently Mexico is investigating similar legislation, but we are on the leading edge of this issue.

We were told last night by the minister that the government is just getting started with Bill C-59. I recently read an article that said file-sharing on person-to-person file-sharing networks, like "e-donkey", has grown from less than 10 per cent of total Internet traffic in 1999 to nearly 60 per cent today. Basically, the traffic has grown as broadband has spread along with new technologies enabling the rapid sharing of huge files. Furthermore, 93 per cent of those downloading movies in this country are doing so illegally. This camcording bill should cut this number substantially, but I suspect there will be a digital copyright bill of some sort in Canada's future. We were able to ascertain this, to a certain extent, last night.

I run a small film festival in rural Manitoba, and I deal with film makers and people in the industry all the time. To them, this proposed legislation is not only timely, but also long overdue. We are very proud that Canada is at the forefront of this movement. There are not that many countries that have accomplished this objective yet. Filmmakers and other artists in this country and around the world do not exactly make a lot of money. This is really their intellectual property. I am very happy to have presented Bill C-59 and pleased by the spirit of cooperation on

this legislation that I have had from all members of the committee. It speaks to our necessity and sensibility.

I thank Senator Dawson for his work as critic on this bill and I wish to say how much I appreciated his assistance during the committee stage.

**Hon. Joseph A. Day:** Would the honourable senator entertain a question?

**Senator Johnson:** Yes.

**Senator Day:** I understand the purpose of putting this infraction in the Criminal Code for a specific act of copyright infringement, but could the honourable senator tell us, first, if the rights to the copyright owner of this film under the Copyright Act would remain; and, second, if the government has any intention of putting other copyright infringement activities under the Criminal Code?

**Senator Johnson:** The answer to the first question is "yes," and the answer to the second question is "no."

[Translation]

**Hon. Dennis Dawson:** Honourable senators, I first want to thank the members of the Standing Senate Committee on Transport and Communications for voting for this bill.

This bill addresses a major problem facing the film and cultural industry. Without a doubt, it will reduce illegal recording in Canada and restore our wonderful country's image on the world stage in terms of copyright protection.

• (1510)

[English]

However, I remind my colleagues in the Senate and in the other place that the problem of film piracy is not the only challenge that confronts our artists and our cultural industry. There are also major problems in Canada about violation of copyright, as my honourable colleague has mentioned. For example, the theft of satellite signals and audio files is debilitating our cultural industry and Canada's international reputation. The government needs to address these issues. This bill, I hope, is only the first step in a series of legislation that will take the problem of copyright seriously.

I also remind the minister, even though he objected last night, that he has the responsibility to inform the public of this new legislation. The new generation, which grew up in a world of technology, needs to be made aware of the serious consequences of these actions.

[Translation]

In conclusion, I want to thank all the senators who support this bill and all the members of Parliament who had a hand in drafting it. As a Liberal senator, I am proud to support such an initiative. With this bill, Canada is taking a step in the right direction by protecting the entire film and cultural industry.

On motion of Senator Tardif, debate adjourned.

[English]

## BUDGET IMPLEMENTATION BILL, 2007

### THIRD READING—DEBATE ADJOURNED

**Hon. Gerald J. Comeau (Deputy Leader of the Government),** moved third reading of Bill C-52, to implement certain provisions of the budget tabled in Parliament on March 19, 2007.

**Hon. Bill Rompkey:** Honourable senators, I understood that Senator Angus would have some cogent and inclusive remarks to put before us. If he does not, I would like to make some remarks myself. I know there are others who would, but I thought he would like to do so, as sponsor of the bill.

**The Hon. the Speaker:** For greater clarity, the first two honourable senators have 45 minutes.

**Hon. W. David Angus:** Honourable senators, I am pleased to propose third reading of Bill B-52, which has been reported back here today unamended by the Standing Senate Committee on National Finance.

As honourable senators know, the committee held extensive hearings on the bill this week and, in particular, as follows: We heard, in 802 minutes of hearing time, 13.37 hours, 28 witnesses from 10 different government and private-sector organizations and six individuals.

The hearings were well conducted by the chair of the committee, Senator Day. I want to congratulate him and thank him, as well as the clerk of the committee, Lynn Gordon, the library staff and all the support staff at the hearings, and all the senators, both members of the committee and those who participated in these hearings in such a focused and constructive manner.

Honourable senators, as I said in my speech at second reading on June 14, the government's Budget 2007, delivered by the Honourable James Flaherty on March 19, is an excellent budget. It contains significant benefits for every single Canadian in every single province and territory of our nation. I urge all senators to remember that Bill C-52 is a government money bill, which was passed by the elected members of the House of Commons on June 12, by a vote of 158 to 103.

Honourable senators, as duly recognized by Liberal Leader Stéphane Dion, and the vast majority of constitutional and legal experts, as well as certain prominent witnesses such as Saskatchewan Premier Lorne Calvert at the committee yesterday, it would be inappropriate for the Senate at this point to block, amend or otherwise delay prompt passage of the government's budget bill.

Not only is it good, sound and important legislation that fully merits immediate enactment, it is important that we recognize that if Bill C-52 is not passed now, unamended, there is a serious risk that some \$4 billion of 2006-07 year-end tax relief and other non-tax measures could be lost, including important environmental protection, climate change control and health care funding provisions, not to mention \$614 million in funding for provincial and federal infrastructure products and labour

market training, plus \$30 million in funding for the Rick Hansen Foundation Spinal Cord Injury Translational Research Network to improve the lives of more than 40,000 Canadians who suffer from permanent spinal cord injuries; also, \$135 million in new aid to help the people of Afghanistan rebuild their lives and their country.

In my view, honourable senators, one of the real pluses and virtues of Budget 2007 is the mechanism it contains: The new principled equalization formula based on the O'Brien report for redressing the serious and heretofore vexing and divisive problem of fiscal imbalance in Canada.

Although this new formula has been widely acclaimed and commended by the vast majority of Canadians and Canadian provinces, unfortunately it is the provision in Bill C-52 that has been exploited by some to provoke the most controversy.

The provinces of Newfoundland and Labrador and Nova Scotia have stirred up a hornet's nest of debate on this subject, starting with a massive public relations campaign launched by Premier Danny Williams soon after Budget Day, March 19, and carried on through April, May and up to this week. Nova Scotia Premier Rodney MacDonald and Saskatchewan Premier Lorne Calvert soon jumped on the bandwagon, and the issue was clearly the dominant one at the hearings of the Standing Senate Committee on National Finance this week.

The committee heard from Premier MacDonald and his finance minister, Michael Baker, from Premier Calvert and his senior officials from Saskatchewan, and from former federal finance minister, John Crosbie, who was accompanied by Roland Martin, a long-time adviser to Newfoundland and Labrador on federal-provincial financial matters; but no Danny Williams. Perhaps Mr. Williams is savvy enough to know the Senate of Canada is not supposed to amend House of Commons money bills, especially government budgets. He has made his point in another way.

As well, former Premier of Prince Edward Island, Pat Binn, and two representatives of the Atlantic Provinces Economic Council, Professor Paul Hobson and Professor Wade Locke appeared. All these witnesses brought further attention and profile to the allegations first raised by Premier Williams to the effect that the Flaherty budget may contravene certain federal-provincial agreements and accords relating to offshore resources and it betrayed various Conservative Party election campaign promises — a shameful thing.

However, none of these witnesses made a clear legal case for amending Bill C-52, or changing or blocking the Flaherty budget. Indeed, former Premier Binns praised the budget. He said it was good for Prince Edward Island and he complimented the government for bringing in the new equalization formula. Premier Calvert of Saskatchewan agreed, saying the budget should be passed as is, but argued for subsequent revisions on the basis of what he called fairness and equitable treatment for Saskatchewan, an issue he claims to be referring to the Saskatchewan Court of Appeal for a ruling. This claim was rather odd, as Saskatchewan and its citizens, by any interpretation, appear to be the biggest and most substantial gainers and beneficiaries from this budget.



• (1520)

Nova Scotia and Newfoundland and Labrador continued the political rhetoric about the need to help them become “have” rather than “have not” provinces. They see the new equalization formula with a cap as a violation of the various Atlantic accord and offshore pacts. They argued that the new circumstances provided a window of opportunity, a life preserver for their economies. They succeeded well with the excellent help of Senators Rompkey, Baker, Moore, Cowan and their entire team. I salute you, gentlemen.

As Minister of Finance Flaherty pointed out when he appeared before the committee, the budget is very good news for Atlantic Canada; they have a choice in the budget which other provinces do not. They can, in effect, stay under the old equalization formula with the 2005 Atlantic accord or they can opt for the new formula, whichever is better for them.

In addition, recognizing that these matters are all a work-in-progress, the Minister of Finance offered to keep talking to these provinces with a view to find a way forward which is in the best interest of those provinces and fair and equitable for all other Canadians and Canadian provinces.

On balance, honourable senators, much political rhetoric was heard and much more attention brought to the ongoing demands and aspirations of Newfoundland and Labrador and Nova Scotia. —However, no valid case was made to justify changing Bill C-52 or in any way amending it.

The changes suggested by Mr. Crosbie, when he appeared, and by Minister Baker from Nova Scotia were impractical and would cause extraordinarily high costs and unfairness to the other Canadian provinces. Indeed, if the cap were removed and if the amendment as suggested by honest John Crosbie were accepted, that would mean more money would be needed and new procedural warrants and royal, whatever they are called, to enable it. It is simply out of order and it cannot be amended as required. Every other province would lose their benefits under the budget and that would lead to chaos.

Honourable senators, the debate was lively, interesting and largely constructive. However, I submit with all due respect, that the solution to the grievances outlined by Newfoundland and Labrador and Nova Scotia is not for us here in the unelected Senate to amend, block or otherwise tinker with the government's Budget 2007.

I quoted from an editorial in the *Montreal Gazette* in my speech at second reading, and I thought I would quote one from *The Globe and Mail* today on this subject. It was written on March 23 under the byline of Neil Reynolds, who said:

Firstly, Mr. Flaherty introduced genuine administrative reforms that should restore a minimal sense of dignity to the equalization program. For a minority Conservative government that seeks to end a century of Liberal hegemony, this was a principled action because it imposes limits on the government's freedom to meddle arbitrarily — some would say corruptly — for momentary partisan advantage.

The article continued later:

Mr. Flaherty channelled much of the surplus back to the provinces where it belongs. In this act of restraint, he proved himself a finance minister of stature. When the Conservatives took office, they promised to establish clear-cut lines of responsibility between federal and provincial governments. Mr. Flaherty demonstrated that he's prepared to get on with it, to decentralize unilaterally.

Honourable senators, the points have been well and truly made on all sides of the issue. The government will, I am confident, continue to work with the provinces to help them become prosperous and self-sufficient “have” provinces in the future.

The other issue which was fully exposed during our hearings was that of the income trusts or income funds; especially those in the energy sector. Representatives of the energy sector came and argued passionately for exemptions from the application of the new tax rules, much as was done in the case of the real estate income funds. However, these arguments have all been heard, well and truly made before. The government's position is clear: The intention in November and December, 2005, was not to change the rules for taxing income trusts, but the economic circumstance changed significantly in the interim.

On October 31, 2006, the government reluctantly but responsibly and courageously did what had to be done. In the best of Canada, in the best interest of Canada's capital markets, and our business and industrial environment and structure and its future viability the government changed the rules.

Honourable senators, that is that. The decision has been made and Bill C-52 and Budget 2007 confirm this: It cannot and it will not be revised at this time in that regard.

Honourable senators, as I have said, Budget 2007 is fair and, indeed, generous. It contains more than the equalization formula and more than measures affecting income trusts. It is a good-news budget which also deals with the environment, with health care and with the onerous tax burden on Canadian families. This budget is about helping families. It is also about achieving our country's full potential as a modern, ambitious and energetic Canada ready to take on the world.

Honourable senators, I ask you to look at what Budget 2007 really does. It reduces the tax burden on working families again, in addition to Budget 2006. As promised, it helps to preserve and protect our environment. It addresses issues of climate change. It contributes to modernizing our health care system.

How, you may ask, has the government been able to accomplish these important goals in Budget 2007. It is because we are building upon a strong foundation, honourable senators. Our economy is strong. Indeed, our economy is thriving. It is a great time for Canadians. It is a great time to make these important changes. Our unemployment rate is at the lowest in 33 years and our fiscal situation is the strongest in the G7. Our budget is balanced. We are paying down our national debt. We are lowering taxes. We are on a roll.

With these fundamentals firmly in place, Canada's government is strongly positioned to take the next steps of its “Advantage Canada” program designed to build the Canada that we will be proud to pass on to our children and to our grandchildren.

Honourable senators, these next steps are contained in Budget 2007. Indeed, the budget measures being implemented here via Bill C-52 today will result in nothing less than a stronger, safer and a better Canada.

Canadians told us they wanted lower taxes. Canada's government wants that, too. You notice it is "Canada's government" when I am speaking. Canada's government has said all along and it continues to say and acknowledge that Canadians pay too much tax.

[Translation]

We pay too much tax! Honourable senators, enough is enough.

[English]

Canada's government took action, first of all, in Budget 2006 in this regard. These efforts are continuing in Budget 2007 through the tax-back guarantee and through a variety of major tax reductions.

In last November's update, Minister Flaherty promised Canadians that they would benefit directly from debt reduction. How would that be? Canadians will benefit with the tax-back guarantee. Lower debt will mean lower interest payments which, in turn, will mean lower taxes. This means that every dollar saved from lower interest payments will be returned to Canadians through personal income tax reductions.

Honourable senators, that means there is more money staying in Canadians' pockets and less money lost to interest payments. Budget 2007 also provides other significant tax relief with a particular focus on supporting working families and children.

Bill C-52 proposes the working families' tax plan, a four-part plan to help Canadian families get ahead. The tax savings from this plan will give families the flexibility to put extra money toward whatever they need: New shoes or clothes for their children, a new bike to go riding in the country with Aunt Suzie, sports equipment so you can play badminton or what have you. It is their choice.

The plan starts with the introduction of the new \$2,000 per child tax credit for children under the age of 18. Honourable senators, this new child tax credit will benefit about 3 million Canadian taxpayers. What is more, it will take up to 180,000 low-income Canadians off the tax rolls and provide more than 90 per cent of tax-paying families with the maximum benefit of \$310 per child.

• (1530)

Honourable senators, the third part of the Working Families Tax Plan proposes to help parents across the country who are struggling with the cost of post-secondary education. Bill C-52 helps parents save for their children's education by eliminating the \$4,000 annual limit on Registered Education Savings Plan contributions and increasing the lifetime limit on those contributions for the first time since 1996, from \$42,000 to \$50,000.

The bill also increases the maximum annual amount of Canada Education Savings Grant that can be paid in any year to \$500 from \$400. If there is unused grant room from low

contributions made in previous years, the amount increases to \$1,000 from \$800.

The fourth part of the Working Families Tax Plan addresses the needs of our growing seniors' population. We know that seniors on a fixed income are often forced to make choices to get by. The government wishes to help them. Bill C-52 helps by raising the age limit for RPPs and RRSPs to 71 from 69. This measure will help Canadian seniors and pensioners, including us, plan for our and their retirement.

Bill C-52 also enacts the first part of the Tax Fairness Plan announced last fall by the Minister of Finance. This plan delivers over \$1 billion in additional tax savings annually for Canadian pensioners and seniors. The plan, which increases the age credit amount and allows pension income splitting, builds on previous tax reductions provided for pensioners in Budget 2006 and will significantly enhance the incentives to save and invest for family retirement security.

The age credit is a special federal income tax credit for Canadians 65 years of age and over. Under the Tax Fairness Plan, the amount eligible for the age credit will be increased by \$1,000, to \$5,066. As a result, lower- and middle-income seniors will receive up to \$150 of additional income tax relief for the 2006 tax year. Lower- and middle-income senior couples will receive up to \$300 for 2006 in additional relief.

With regard to pension income splitting, starting in 2007, Canadian residents who receive income that qualifies for the existing pension income tax credit, which the government increased in Budget 2006, will be permitted to allocate to their resident spouse or common-law partner up to one half of that income.

Pension income splitting represents a major positive change in tax policy for eligible Canadian pensioners. It recognizes the special challenges of planning and managing retirement income by providing targeted assistance to pensioners.

In total, \$675 million of tax relief is anticipated under the pension-splitting measure for the 2007 year.

Looking ahead, honourable senators, Canada's government will continue to look for ways to provide additional tax relief and a fairer tax system across the board for individuals and businesses in this country.

As honourable senators know, the environment is an area of particular concern for all Canadians. Canadians, all of us, are proud of our country, the one we have built together, the most beautiful country in the world. We must preserve and protect our lands, our ecologically sensitive lands, our water and our air. With that goal in mind, Budget 2007 invests \$4.5 billion to clean our air and water, reduce greenhouse gases and combat climate change, as well as to protect our natural environment.

In combination with investments since 2006 totalling over \$4.7 billion, the resulting investments total over \$9 billion. This illustrates the depth of the commitment by our government to ensure that Canadians have cleaner air and water.



Bill C-52 takes an important step in that direction. It provides more than \$1.5 billion in the Canada ecoTrust for Clean Air and Climate change for initiatives undertaken by provinces and territories to support clean air and climate change projects.

Bill C-52 also provides for measures that will strengthen conservation of sensitive land and species and preservation of our cultural and national heritage.

A strong and effective health care system is also of prime importance to all Canadians. We all cherish our health care system, and the government of Stephen Harper aspires to strengthen it. That is why Budget 2007 provides for a total of \$1.4 billion in new health care investments, as well as continued increases in health transfers. Our government will transfer close to \$46 billion in health care funding to the provinces and territories over the next two years.

In order to modernize our health care system, Bill C-52 invests \$400 million in Canada Health Infoway, an organization that is making significant progress in working with provinces and territories to implement electronic health records. This initiative will help reduce wait times, reduce the risks of medical errors and lead to better health outcomes.

Furthermore, the government wants to support all provinces and territories as they move forward with their commitments to implement Patient Wait Times Guarantees. To that end, Bill C-52 provides for funding of up to \$612 million.

As I said at second reading, Bill C-52 provides \$300 million to provincial and territorial governments, thereby enabling them to introduce cervical cancer immunization programs.

Honourable senators, as I said at the outset, this bill responds to the priorities of all Canadians by cutting taxes, preserving our environment and modernizing our health care system — in addition to, as I said earlier, addressing the vexing problem of the fiscal imbalance across this land.

Honourable senators, I am proud to be the sponsor of Bill C-52, and even more so after participating in this week's hearings at the Senate National Finance Committee. This is a fine budget. It stands up to scrutiny. It is good for all Canadians. It restores, as I say, the fiscal balance, which was in an even worse shape than I had realized before Bill C-52.

Therefore, honourable senators, I ask you all to come together, as we are at June 21, and pass this bill quickly so that Canadians can fully benefit, unamended, from all of these positive measures.

**Hon. Lowell Murray:** Would the sponsor of the bill accept a question?

**Senator Angus:** Yes.

**Senator Murray:** I know my honourable friend would not want to inadvertently mislead us as to the position taken by Premier Calvert.

The premier did state that the budget would pass. However, on the specific question of amendments when it was put to him, Premier Calvert acknowledged our prerogative to amend the bill if we so desired. He went so far as to speculate that we might pass amendments that would please him.

Premier MacDonald, of course, suggested amendments. Mr. Crosbie drafted an amendment. I am not aware of any other witnesses, even the Minister of Finance, come to think of it, who told us we must pass the bill unamended. Does that accord with my friend's recollection?

**Senator Angus:** Let me put it this way: I am urging honourable senators to pass this bill unamended. I can even point out chapter and verse as to how the amendments — I will do so if asked later — being discussed as we speak are not actually doable within the terms of reference before us.

**Senator Rompkey:** I also want to join with my colleague in thanking the members of the committee. First, I wish to thank our chair, who did an admirable job of chairing the proceedings. I also wish to thank the clerk of the committee and all those who served us on the committee. I want to thank the members of the committee. I even wish to thank Senator Angus, who did his homework and defended this terrible budget as best he could.

I want him to know that he has my deepest sympathy and that I will urge all my colleagues not only to amend this budget but to get rid of it, because it is one of the worst we have ever seen.

• (1540)

I want to thank my own colleagues, who spent a great deal of time and exhibited a great deal of patience with us from the Atlantic, because it is no surprise that Senator Angus started his remarks on the Atlantic accords and I will address that issue as well.

Many of our colleagues were patient with us and supported us because they knew how important that issue was to us.

I want to reflect on some of the things that went on in committee. First, there were some good things in this budget. Senator Angus has identified some of them.

For example, the Rick Hansen Foundation had funds for further research and there was a list of organizations that received similar funds, one-time disbursements to help with research. They did not do everything we wanted. Senator Munson will be displeased that they did not address autism, but they did address many concerns of Canadians and they must receive marks for that.

I too recall the testimony of the representatives of the income trusts who came before us, and none of them were happy, whether they were corporate representatives or individuals. None of them were happy with what happened to them and with the amount they lost. They asked for a period of grace, a period in which the whole issue could be discussed to see if some accommodation could be found that would ease the pain that people felt, particularly old people, in losing some of that money. I hope that the government will listen to that request and respond appropriately.

Other colleagues of mine, I am sure, will address the issue of equalization and the issue of the transfers in health and education. Senator Moore has led the charge in that regard, and I hope he will talk to us about what this budget does in terms of the Atlantic Provinces, and in particular, to his own province of Nova Scotia,

on the question of health and education transfers. I am sure Senator Ringuette will be on her feet about the equalization measures.

Those issues will be dealt with, I have no doubt. I will not deal with those measures; I will leave it to them to do that.

What is not in the budget is important too. There is no money in the budget for literacy. Senator Fairbairn and many others have led the charge to restore those funds that were taken away. They are not there. Literacy is a foundation stone for education in this country. Illiterate people should be helped to contribute to our economy. We need to start at the beginning and the beginning is literacy. There was no money in this budget for that.

There was no replacement of the daycare program. That issue is associated with the question of literacy. There is an old saying: As the twig is bent, the tree is inclined. If we do not help young people in the early ages, they will suffer and we will not have the kind of product that we need when they are older. There was nothing in the bill to address the cause of young and younger people in this country. Dr. Fraser Mustard has told us what an abysmal record Canada has on early childhood education, and there was nothing in this budget to deal with that issue.

There was great talk today. Minister Prentice must receive marks for beginning to address the situation that Aboriginal people find themselves in this country. Chief Phil Fontaine has done that and he is right. He is beginning to address that. However, it is a terrible situation. I do not see any money to help what Minister Prentice wants to do because he wants to speed up land claims. There may be legislation coming, but there is nothing in the budget to indicate that is a priority for the government, or that they are willing to put any money behind it.

To solve the Aboriginal problems in this country, you must start with land claims. There is a long list. Even with your new mechanism — I am sorry, Senator Segal, I was speaking and I could not hear you because of the sound of my own voice. Would you mind repeating the question?

To solve the problem, you must start with land claims. There is a long list. Aboriginal people in this country want control. They want compensation for what has been done to them. Harm has been done to them by our society over the decades. They want compensation for that, but they also want control, a mechanism whereby they can achieve some self-respect, self-determination and self-reliance. That is what must be done and that must be done through land claims. They must be masters. That must be done through land claims and there was nothing in this budget to show that land claims are a priority for the government.

I want to talk about the Atlantic accords. I want to read into our record some of the testimony that we heard in committee, because I think it is relevant and it speaks to the fallacious and specious arguments put forward by Senator Angus. They certainly were not disingenuous, but they were "disingenuous."

I want to quote from Premier Rodney Macdonald. He said:

I will be brief and I will be blunt.

The federal government's efforts to tear up the 2005 Canada-Nova Scotia accord are not only extremely harmful to Nova Scotia, but they do great damage to the reputation

of the Parliament of Canada. They fuel public cynicism, create regional divides, and cast a dark shadow over the future of our federation. How? By demonstrating to Canadians that the word of their government is to be questioned and the contracts it signs on their behalf not worth the paper they are written on. These are strong words, I know, but they are words that cannot be challenged when you examine the evidence in black and white, taken against the standard of honour, integrity, or legitimate concern for the national good.

These are important words for us here in this chamber as we conduct our business. Senator Tardif said today that we were trying to return to that situation where we treated each other in a gentlemanly manner in this chamber with those values, I suggest. Taken against the standard of honour, integrity, or legitimate concern, they fail.

Premier Macdonald went on to say:

Let there be absolutely no misunderstanding. The Canada-Nova Scotia offshore agreement is very clear. There is not a lick of ambiguity in the wording and not a speck of doubt about its intent. The accord was expressly written and specifically designed to support Nova Scotia's efforts to grow its economy and to become self-reliant and, over time, self-sufficient. Let there be absolutely no misunderstanding that the federal budget, Bill C-52, is also very clear. Again, there is no lick of ambiguity in the wording and no speck of doubt about its intent. It was intended to appeal to vote-rich areas of the country by rendering null and void signed agreements with Nova Scotia and Newfoundland and Labrador, agreements that are not widely popular with either the federal Finance Department or those who mistakenly believe that Atlantic Canada got something special.

Mr. Chairman, those are some of the indisputable facts and the reason I am here today. I would now like to address some of the urban myths spinning out of the Prime Minister's Office and the office of the Minister of Finance.

Prime Minister Harper and Minister Flaherty have repeatedly stated that "not one comma of the accord has been changed and it remains in its original pristine form." Again, that is absolutely not true, and they know it. The federal government has unilaterally wiped out an entire clause of the agreement — in fact, the most important clause of the agreement, clause 4. The accord, post-budget, is nowhere close to being in its original form. In fact, for all intents and purposes, it does not exist any more. If Bill C-52 passes through the Senate chamber without amendment, the final nail will be driven into the casket that holds the Atlantic accord.

• (1550)

Clause 4 of the accord guaranteed Nova Scotia that it would never have to make that choice. That is the important thing.

We will go on to what the accords were supposed to accomplish, but they were lawful agreements signed between two levels of government. They were a solemn contract, the same as the Upper Churchill contract that my province signed with Quebec. We cannot break that contract. It is a contract; if you



break it there are penalties. This is a contract signed between two sovereign levels of government. Bill C-52 abrogates that contract, and it is wrong and should not be done. That is what the government is attempting to do.

In his testimony before the National Finance Committee, John Crosbie's said that he came here as a Conservative, and he was still going to support the Conservative Party. He said what had been done was wrong, and he disagreed with what the government did.

John Crosbie needs no introduction to anybody, and I can tell you that in my province John Crosbie is an iconic figure and has an immense amount of respect because he has gone through some good times, but he has also gone through some hard times, and he escaped with courage, determination and wit.

John Crosbie said:

I want to make my position clear: I am firmly of the belief, as are a great many people, that these accords had been breached by the present legislation that is before you. These are accords that were entered into by provincial and federal governments. The accords state that they are not to be amended without the consent of both parties.

It is written into the accords that they are not to be amended without the consent of both parties. They are legislation; they cannot be amended without the consent of both parties. There is no doubt that the intention, and the main purpose of the accord was to ensure that Newfoundland and Nova Scotia became — and this is important — the primary beneficiaries of their revenues from the offshore resources.

John Crosbie said that the federal Department of Finance website confirms that on February 14, 2005, the arrangement was reached built on the 1985 accord for a time-limited period providing 100 per cent protection from equalization reductions resulting from the inclusion of the offshore resource reference in the equalization program. This was in recognition of the unique economic and fiscal challenges facing the province.

Mr. Crosbie says that the Government of Canada is admitting this. Of course it is. In committee, Mr. Crosbie said:

It is very discouraging that the disputes about the accord frequently get mixed up with equalization. The subject that you are considering and that is of controversy at the moment are these accords. Equalization is incidental to the accords. All this complicated debate goes on about equalization, which I am sure the federal government feels confuses the public sufficiently so they do not consider the real issue. The real issue is that a bilateral agreement entered into by two provinces with the Government of Canada has been breached by the Government of Canada contrary to its terms.

I will not read all of what Mr. Crosbie said because he went on at length. I think we have the gist of what he is talking about.

Premier Calvert said one important thing that is important for us to consider. Premier Calvert said that if we cannot get the benefit of these resources, it is just as well to leave them in the ground and exist on equalization.

Newfoundland and Labrador is in the same boat; we have accords, but we really are in the same boat as Saskatchewan when it comes to the return on resources. If you cannot develop your resources and get the return from those resources because of the equalization program, you might as well leave them in the ground and stay where you are; stay stuck forever in your place in Confederation. It is important for us to listen to Premier Calvert on that issue.

I want to tell honourable senators a little bit about the history of Newfoundland and Labrador, which is important to understand. We are a very old people; we have been there for about 500 years. Britain always considered Newfoundland to be a great ship moored in the middle of the Atlantic from which they fished. Cod was King; they sold it all over the world. There were merchants in West Country, England, who had vested interests in nobody settling in Newfoundland, and certainly nobody starting enterprises in Newfoundland.

Unlike other places like Nova Scotia, P.E.I. or New Brunswick, there never was, on behalf of Britain, an attempt to colonize, to form an economic colony in Newfoundland. As a matter of fact, we were discouraged from settling, so people jumped ship and settled in all the little bays and coves and hid away and did the best they could.

Over time, things changed, but in the beginning we were never intended to be a settled colony. As a result, we have had a great deal of difficulty over the years in dealing with that. If you have a resource like cod, like fish, it is difficult to survive because markets go up and down, prices go up and down; there are all sorts of factors. We do not have any farm land or any rich manufacturing centres of excellence. We had fish. That fish is now gone. People are leaving.

Over the past 15 years, 1.5 million people have left the province. Do you know who they are? They are young, educated people. We are exporting brains to the rest of Canada like never before. Our population is now about 500,000, and is heading very quickly for 400,000.

Over the period of time when we started to form governments, we did, but they were not very good governments, I must say. We were the authors of our own misfortune, in many ways. The Second World War saved us, and because of the American bases and the war effort, we entered Confederation in 1949 with a surplus of about \$40 million.

We decided to join Canada with a very close vote; 52 to 48 per cent. Not everyone thought we should join Canada. The case was made very forcefully and well by Mr. Smallwood that this would be the best option, and 52 per cent of the population voted with him. We voted to join Canada to try to improve our situation. We could have voted to stay independent, as we were. At that time we were a dominion, equal in status to Canada. We were part of the British Commonwealth and were a dominion as a result of the Westminster Act of 1931.

Forty-eight per cent of the people voted to maintain that status, but they were outvoted by 52 per cent of the population. It is interesting to speculate as to what would have happened if the vote had been the other way. As a result of that vote we brought

oil and gas with us into Canada. Nova Scotia was part of the original compact. Those resources in Nova Scotia were Canadian from the very beginning. When we joined in 1949, we brought those resources with us, as we did the fisheries resources. If we had not joined, had stayed independent, we would have kept the resources with us. Had we had governments that saw the light and signed the Law of the Sea Convention in 1978 or 1979, we would have had a 200-mile limit and would have owned those resources under the sea. However, by an act of history, the sea covers those resources of oil and gas under the water as they do not in Alberta. It is an accident of history.

• (1600)

I point that out because, as provided for in the Constitution, resources all over Canada belong to the people who live over them. By an act of history, our resources are put into question. When we joined Canada, we brought those resources with us, and we want to benefit from them. We have a window of opportunity now, as Premier Calvert and Premier MacDonald both said, because we are now in the same boat. We all have a debt that we are trying to pay down. We all have infrastructure that we are trying to improve. We all have education that we are trying to provide to our people to make them better and more productive Canadians and to contribute to this country. That is what we are trying to do.

Senator Di Nino figured that out yesterday. He bought, if I understood, what Premier Calvert was saying, that they wanted to sell the resources to make some money to reinvest to ensure that the province benefited in the long term. Senator Di Nino, as I understood his reaction to Premier Calvert, understood that and thought it was a reasonable objective to be able to do that, to be able to stand on your own two feet in Canada.

However, if we cannot keep the revenues from those resources, we will have nothing to invest, and we will be stuck because those resources will run out. We are not talking about hydroelectric power here; we are talking about oil and gas resources, and they are finite. If the opportunity is not taken to create a future for yourself, whether you are in Nova Scotia, Newfoundland and Labrador, or Saskatchewan — if you do not take advantage and use those revenues to create a future, you have not got a future and you are stuck. You are a have-not forever.

Prime Minister Harper, before he became Prime Minister, recognized that and asked why some automatic cap should ensure that the Province of Newfoundland and Labrador and the Province of Nova Scotia remain have-not provinces forever. Why should that happen? He thought that before he became Prime Minister, but he has obviously changed his mind since.

That is what we want to do, and this budget prevents us from doing that. It changes the accord. Both Nova Scotia and Newfoundland and Labrador were supposed to get the revenues. Under the accord, we were supposed to be the principal beneficiary. That money was supposed to flow to the province.

If a province makes \$1 on oil and gas but then that \$1 is clawed back in equalization, it is analogous to being on a treadmill — going nowhere, stuck. That is why we bump up against the equalization program. However, under the provisions of the

accord, in spite of the equalization program, we were to keep our oil revenues, because they are ours. However, this budget abrogates that agreement. That is what is wrong with it, and that is why it has to be changed.

Honourable senators, we want to pay down our debts. We want to build our infrastructure. We want to educate our people. We want to develop new enterprises. We want to build the Lower Churchill, and we want to become a contributor to Canada. That is why this pernicious budget must be amended; it is my hope that we defeat it.

**Some Hon. Senators:** Hear, hear!

**Senator De Bané:** Bravo!

**Senator Murray:** Honourable senators, the honourable senator has made a wonderful speech. I congratulate him on that.

I have one question to clarify the situation with regard to legal ownership of the offshore resources off Nova Scotia. I recognize that there was a Supreme Court of Canada decision in the case of Newfoundland and Labrador. My recollection is that Nova Scotia, for its part, and Canada, for its part, in 1982, decided to set aside their respective legal claims and entered into the agreement of 1984 between the then Trudeau government and the Province of Nova Scotia. However, Nova Scotia has never renounced its legal claim.

**Senator Rompkey:** I am sure the honourable senator knows more about the Nova Scotia situation than I do. However, in our case, the question of ownership was put aside. I thought that was a very Canadian of doing things. Let us not consider the legal question of ownership. Let us ensure that the principal beneficiary is the one who lives closest to the resource and thus the one that should benefit from it. That is the main point.

As I say, I am not as familiar with the Nova Scotia accord as I am with my own. It was certainly the case for us that ownership was put to one side while the arrangements were made to flow the money as the accord dictated.

**Hon. Gerry St. Germain:** Honourable senators, my question is to the Honourable Senator Rompkey, whom I served with in the other place. Historically, one of the honourable senator's hallmarks has been fairness, in anything he has done.

My question is for clarification. The honourable senator has excellent knowledge of the workings of the other place, Treasury Board and so on. His knowledge is only exceeded by his eloquence.

With regard to the specific claims to which the honourable senator made reference that the Minister of Indian Affairs and Northern Development has initiated, in the spirit of fairness, the chronology of events would have prevented the minister from pre-empting anything because the study that emanated from this place that was acted upon by the government was not in place at the time this budget was being drafted. Any funding would have to be attached to a piece of legislation.

The honourable senator is familiar with the fact that Treasury Board rules would prevent just setting out blocks of money that are not attached to any legislation. In all fairness, surely a man of



Senator Rompkey's experience and understanding does not want the record to show that the government failed when in fact I firmly believe the government will take the action in the future that it could not take at that particular point in time because the legislation that would cover this initiative is not in place. It is merely a cabinet document at this time.

**Senator Rompkey:** That may very well be, but certainly signals could be sent.

**Senator Stratton:** I think they were.

**Senator Rompkey:** This issue is not new. We have had Kelowna. As to whether it is an accord or a press release, there seems to be debate on both sides of the chamber as to that. Certainly, this issue is not new. It is an issue that has to be addressed. Some signal could have been given in the budget with regard to that, but, as far as I can tell, it was not.

**Hon. Elaine McCoy:** Honourable senators, I am delighted to speak to Budget 2007 today. Like Senators Angus and Rompkey, I congratulate the government on getting many things right in this budget. There are, indeed, spending plans of a generosity that we have not seen since the Liberal government. It is good to see some of those.

I should like to mention, in particular, the spending on universities. As Senator Keon pointed out yesterday, innovation is to be encouraged and is lacking in this country. Universities, colleges and technical schools are important incubators of future prosperity for our country. Anything that can be done to support those institutions is to be encouraged.

• (1610)

Honourable senators, I rose to speak on two subjects today — one very briefly and the other at greater length. I, too, wish to speak to the effect of Bill C-52 on the Atlantic accord and on Saskatchewan.

I am hoping that some of my colleagues, either from Saskatchewan or from Atlantic Canada, whose regions are so blatantly and adversely affected by these provisions, will bring forward amendments. If amendments are brought forward, I certainly will support them.

I do that as an Albertan. Although the analogy is not perfect, I regard the effect of Bill C-52, in many ways, as similar to the National Energy Program. I certainly have sympathy for those Canadians in other parts of Canada whose hopes for the future are being dashed or, at least, being put at risk.

I also wish to make this comment, honourable senators: The aftermath in Alberta of the National Energy Program has been long-abiding anger and resentment. It has led to disruption; it has led to splinter groups like the Reform Party; it has not led to the greater unification and confederation of our great country.

It has been just over 25 years since that program was put in place. The resentment is only now diminishing, as the younger generations grow older, as in-migration has come and as some of us have gotten over our anger — although other leaders active in our country right now are holding on to the anger that was brought about by the National Energy Program. I would not want to see a similar situation come to the boil again, whether it be in Atlantic Canada or in Saskatchewan.

From a nation-building perspective, as an Albertan I will support an amendment, if one is brought forward, for the good of our country.

**Some Hon. Senators:** Hear, hear.

**Senator McCoy:** The issue of income trusts, honourable senators, is also an issue very dear to many of us in Alberta. Many Albertans have spoken to me about this issue, both in person and through my website on my blog, as well as witnesses who appeared before the Standing Senate Committee on National Finance in the last few days.

The provisions in Bill C-52 remind me in many ways of that wonderful story about Einstein — a story some of you may have heard. After Einstein boarded a train, he was approached by a conductor for his ticket. Einstein started searching all over for the ticket, but he could not find it. The conductor said, "Dr. Einstein, it is all right. I recognize who you are. I trust that you did buy a ticket. Do not worry about it." The conductor then left to collect tickets from other passengers.

As he looked around, the conductor realized that Dr. Einstein was down on his hands and knees, scrambling around at the bottom of the seat, trying to find his ticket. He went back and said, "Dr. Einstein, please, it is not an issue. I trust you. I know who you are." Dr. Einstein looked up at him and said, "Young man, I, too, know who I am. I am just trying to figure out where I am going."

The provisions on income trusts in this Bill C-52 strike me in the same way: The government certainly knows who they are but they do not really know where they are going.

As just one illustration one of our income trusts, an energy income trust in Alberta, is very close to putting into effect a merger with another trust. As is the practice, one goes to the CRA, the Canada Revenue Agency, for an advance tax ruling on their situation as it pertains to income trusts. The officials at the CRA said, "I am sorry. We will not give you an advance tax ruling." CRA said they would not because they did not know what the rules are and they were unwilling to speculate.

Honourable senators can imagine the effect of that on the financial forward planning of any business organization. It is an impossible situation to an organization in; however, it is also an impossible situation to put the officials of the Canada Revenue Agency in. There are no rules; there is no clarity; no one knows where they are going.

It is amusing to listen to the hyperbole on this subject. There are allegations, factoids and quasi facts being thrown around. There are positions being taken on assumptions that have not been proven. There is direct evidence of those who are in the business being denied by those who are not in the business; they are in government and do not know what it is like to be in the business.

There are people I know, and you know, who have actually lost money from their pockets — senior citizens who were relying on this income for their retirement years. Others have regained some of their losses on the market, so it is not an entirely black picture. However, the whole situation is one of total confusion.

There is any number of solutions that could be brought forward. There have been many suggestions as to sensible ways to resolve whatever issue moved the government in the first place. It was, of course, tax neutrality between a shareholder and a unit holder. There are many ways to solve that problem, some better than others, but not one of those solutions is being given a full hearing.

Another income trust fund representative told me that it took them months to get an audience with the Minister of Finance. He gave them 20 minutes, but he used up 18 of those 20 minutes haranguing them as to why he would not change his mind and would not listen to whatever they had to say. There is absolutely no avenue for a sensible path forward for Canadians, whether they are on the business or investment side or in the government, to find a reasonable solution.

Honourable senators, I would very much like to see the whole set of provisions on income trusts taken right out of Bill C-52 and dealt with separately. Had that been done, Canada and Canadians would have been better served.

I do recognize, however, that there is a bit of a time warp caused by the late delivery of the budget to us. Honourable senators, I have respect for the institutions of this country. Therefore, I want to put forward a non-substantive amendment to Bill C-52, an amendment that will address the issue by giving more time for those who know something about this issue to get together over time.

#### MOTION IN AMENDMENT

**Hon. Elaine McCoy:** Therefore, honourable senators, I move, second by Senator Banks:

That Bill C-52 be not now read a third time but that it be amended in clause 13 by replacing line 18 on page 20 with the following:

“(a) 2017, and”;

And that it be amended in clause 24 by replacing line 10 on page 33 with the following

“(a) 2017, and”.

The effect of these amendments would be to lengthen the period of adjustment, the transition period, from four to 10 years, which, I am told by those who have much knowledge of these matters, including Dr. Mintz, is a reasonable period for an adjustment period to be introduced by a government when they are making a fundamental and major change in the taxation laws of our country.

• (1620)

**The Hon. the Speaker:** Debate, honourable senators?

**Hon. Tommy Banks:** Honourable senators, I am honoured to second Senator McCoy's motion. I intend to vote in favour of this budget for reasons that I will discuss later, perhaps, but are unimportant in the scheme of things. However, speaking to the amendment moved by Senator McCoy, she quite correctly described the situation and the necessity, appropriateness and

practicality of permitting that segment of an important industry in Alberta and of unit holders in the companies that operate in that industry across the country to have a transition time that is longer and of a more traditional length than the one contained in the present bill.

It is no secret to honourable senators that many people of my age have relied upon income trusts. I parenthetically observe that I do not hold any income trust units in any concern. That makes me lucky in some respects. However, many of those folks relied upon the undertakings of successive governments that those units would be there for the benefit of their retirement, their old age and their capacity to continue to live comfortably. We all have heard those complaints from such people.

At the same time, I want to say that this is important for me. Senator Angus is quite right when he said that the present government looked at the situation with respect to income trusts and the situation had changed. There was what appeared to be an avalanche coming at us of otherwise equity-based stock companies that would be moving in the direction of income trust, which could have an unsettling effect on the fisc.

If I may use a metaphor, this government, the previous government and the government before that had permitted some people, quite within the law, to build a fortress to protect themselves from the tax man. When it became apparent that the capacity of it would be something that would put things out of kilter, the government undertook in this case to man the fortress and to shoot anyone trying to get inside and, in the process, to shoot anyone inside the fortress at the same time. I agree that something needed to be done and I believe that a Liberal government would have had to do something. It looked at it and decided not to do anything under the circumstances that obtained then, but I believe that a government probably would have had to do something.

The question does not boil down to whether or not anything was done, but rather how it was done, the way it was done and the effect that it has had. The government has used a sledge hammer to kill a fly and has been unable or unwilling to demonstrate with any veracity, the reasons for its action. The information with respect to the calculations and the figures upon which that decision was based has not been forthcoming except in page after page of black lines.

This is the minimum that could be done to correct that shortcoming. The effect of this amendment would be, as Senator McCoy has said, to extend the transitional time from four to 10 years. If passed, the amendment and the bill would have the effect of moving to 2017 the date on which the new regime would come into place.

As Mr. Jack Mintz pointed out in his testimony before the committee on Tuesday pointed out, the Department of Finance has for decades provided lengthier transition periods than four years when it is undertaking to make major changes in the tax structure such as this. While this would not fix everything and would not treat those old folks in the fort fairly, at least it would allow a more reasonable transition time.

Therefore, Senator McCoy's amendment has considerable merit and I commend the attention of honourable senators to it.



**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, I have consulted with the other side and with the table and, with leave of the Senate, I would request to all honourable senators wanting to propose an amendment that the amendments be stacked in order to facilitate the debate.

**The Hon. the Speaker:** Is leave granted, honourable senators, to stack the amendments?

**Hon. Senators:** Agreed.

**Hon. George Baker:** Honourable senators, this is the second amendment for stacking. The amendment that I am about to propose, as honourable senators know, was proposed by the former federal Minister of Finance, the Honourable John Crosbie, a famous member of the Progressive Conservative Party of Canada and someone who declared to the committee that he supports the Conservative government in everything they do here in Ottawa except in respect of the proposed amendment I am about to put forward.

The Premier of Nova Scotia, the Honourable Rodney MacDonald, another famous Progressive Conservative from eastern Canada, appeared before the committee and put forward the same amendment in substance as put forward by John Crosbie and his economists.

Honourable senators, I know that some people frown upon the Senate amending bills that originate or are approved in the House of Commons. It is generally accepted that only in extraordinary circumstances would the Senate put forward amendments to proposed legislation that has passed in the other place. Honourable senators, it is similar to the system that we have in effect in law and in all of our adjudications that are done through tribunals throughout this country as established in law. In other words, appellate courts of this country do not retry the case. The decider of fact is the trial judge. The Court of Appeal does not retry the case, but mainly gives judgments on questions of law. The Supreme Court of Canada does not retry a case, although it can overturn a case on the basis of law alone upon application. That is what I intend to do. There are other senators in this chamber from Atlantic Canada and from the North who believe that this bill before the Senate is a question of law.

Honourable senators, the law that we refer to includes the agreements made with Newfoundland and Labrador and with Nova Scotia many years ago. It started as a memoranda of agreements. I have now before me the Atlantic accord.

• (1630)

Section 60 states:

Except by mutual consent, neither government will introduce amendments to the legislation . . .

The same thing applies in Nova Scotia. The legislation followed. Of course, we all know the importance of putting something in legislation.

The Senate spent a considerable amount of time trying to figure out a way to get the United Nations Convention on the Rights of the Child into domestic law in Canada. Why did the Senate look for a means of doing that? It was because we were faced with

decisions of the Supreme Court of Canada, such as that of *Baker v. Canada*, 1999, in which the Supreme Court passed judgment, and recently referred to in *Alexander v. Canada*, 2005, paragraph 42 of which reads in part:

. . . the Supreme Court held that while the Convention has not been incorporated into domestic law, so that its provisions "have no direct application within Canadian law". . .

The Supreme Court of Canada case they referenced was direct. It said that treaties and conventions are not a part of Canadian law unless they have been implemented by statute. That is at paragraph 69 of *Baker v. Canada*, 1999.

We came to the conclusion on that committee and the committee that followed that we must find some way of making it domestic law in Canada. That is what those provinces did. They had agreements signed that said that neither side will change this agreement or amend the law that is to follow. The implementation acts were brought in. First was the Implementation Act for the Province of Nova Scotia, 1988. What was put in that law? There was a provision, section 7, "Amendment of Accord," that said that the Government of Canada may, jointly with the government of Nova Scotia, amend the accord from time to time.

The Newfoundland act even went further. The preamble reads:

. . . neither Government will introduce amendments to this Act . . . without the consent of both governments.

They then went even further than that and said that this is our law, on the Department of Justice website, in Westlaw Carswell and Quicklaw. It is the law of the country today. They said in section 4, as they covered it off the same way in Nova Scotia:

In case of any inconsistency or conflict between

(a) this Act . . . and

(b) any other Act of Parliament that applies to the offshore area or any regulations made under that Act,

this Act and the regulations made thereunder take precedence.

That law was passed in 1987 and 1988, in the laws of Canada and in each one of the legislatures of Nova Scotia and Newfoundland.

What happened? We now have an act here that unilaterally changes all that without the permission of the provincial governments concerned. Worse than that, senators; they turned around in this act before us today and they unilaterally changed another act. Honourable senators will recall that the accord was the Mulroney government's, with John Crosbie, the provincial premier Brian Peckford, and the great William Marshall, who became a member of the Court of Appeal in Newfoundland, an outstanding and brilliant Newfoundlander. They were Conservative governments.

Then we came to the Liberal government of Paul Martin, and we had an act of Parliament passed that was also passed in each of the legislatures. There is chapter 30 of the Nova Scotia and Newfoundland and Labrador Additional Fiscal Equalization

Offset Payments Act, which gave the same guarantees because they amended the implementation acts of the accords, and they even went further. They said that any amendment or alteration made in the regulations must also be with the approval of both sides.

Along comes this act, and this act changes unilaterally that act as well. What does one do, honourable senators? They can violate treaties; they can violate agreements; and they can violate election promises. There is much case law on that. They can tell a lie during an election; or perhaps not a lie, because it would not be intentional. It is a fib. They can tell a fib during an election, according to case law, and get away with it if they are sued.

The Province of Saskatchewan is going to court. The premier of Newfoundland is objecting on the basis of the letter that he received from the Prime Minister that said that non-renewable energy resource revenues would be excluded from the equalization formula. We all know about that, but that is not what we are talking about here. We are talking about something that has been enshrined in law, which cannot change because in those federal laws there is a provision that says changes must have the approval of both sides, and if there is a change, then that existing law shall prevail. I read it to honourable senators.

What does the Senate do? John Crosbie, famous Conservative and the leader of the Conservative Party, made a suggestion to us, and the premier of Nova Scotia, and many of us in this chamber agree with him. If the Parliament of Canada in the House of Commons — and I went through their records and they did not even deal with the question, unfortunately — does not deal with matters such as this, where something contravenes the law so blatantly and remarkably, it is the Senate's position to step in. It is not that the provinces were able to sue the federal government. Perhaps the Prime Minister was only giving his interpretation of what he had been told by his legal advisers, that perhaps this matter should go to the courts for a determination to be made. I think there is a role for the Senate to step in, in these outstanding circumstances, when it is remarkable, when it shocks the conscience of the community, and propose an amendment; that we are duty-bound to say: You cannot do that to two small provinces, or you cannot do that to a minority group or a small group of people. There is not only a signed treaty but it has been put in the law. You say you cannot do it in the law, and you also say that the law prevails if you pass a conflicting piece of legislation.

Honourable senators, the amendment proposed by Mr. Crosbie was acceptable to the Government of Nova Scotia. They were both arguing from the same area, and the legal people drafted an amendment.

#### MOTION IN AMENDMENT

**Hon. George Baker:** Therefore, I move, seconded by two great members of this chamber, Senator Rompkey and Senator Mercer, the following:

That Bill C-52 be not now read a third time but that it be amended in clause 62, on page 66, by adding after line 26 the following:

“(4) Despite any other provision of this Act, in determining under subsection (2) the reduction of the fiscal equalization payment that may be paid to Nova Scotia or the reduction of the fiscal equalization payment that may be paid to Newfoundland and Labrador for a fiscal year, there shall not be included in the computation

(a) any offshore revenue, within the meaning of section 4 — in respect of Nova Scotia — or section 18 — in respect of Newfoundland and Labrador — of the *Nova Scotia and Newfoundland and Labrador Additional Fiscal Equalization Offset Payments Act*, derived by the province in any fiscal year;

By the way, senators, it has timelines on it. It is not for infinity. Timelines are described.

(b) any amount that may be paid to the province for that fiscal year under the *Canada-Newfoundland Atlantic Accord Implementation Act*; or

(c) any amount that may be paid to the province for that fiscal year in accordance with the provisions of the *Nova Scotia and Newfoundland and Labrador Additional Fiscal Equalization Offset Payments Act*.”.

• (1640)

**The Hon. the Speaker pro tempore:** Honourable senators, you have heard that that there are two seconders of this motion. We usually have only one. Is leave granted to have two seconders to this motion?

**Hon. Senators:** Agreed.

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Joseph A. Day:** Honourable senators, it is my understanding that we are stacking the amendments. It had been my intention to give an overview before going into specifics. I had hoped to speak before Senator Baker.

If honourable senators are in agreement, my remarks will be an overview of what the committee accomplished during the time we had.

As Senator Angus so ably pointed out, we met for almost 14 hours and heard 28 witnesses over the past two days. On my behalf and on behalf of my deputy chairman, Senator Nancy Ruth, I congratulate the committee for dealing expeditiously with this rather complicated bill.

Honourable senators, we dealt with three main issues during the last two days. One was income trusts, which was canvassed by Senator McCoy and Senator Banks. Honourable senators should be aware that real estate investment trusts are exempted from the legislation. We were asked why, if there can be one exception, there cannot be another for energy trusts, which are an important part of income trusts.



Several witnesses recommended moving from four years to ten years. I congratulate Senator McCoy on introducing that amendment. I would like to have seen that proposal come from the government side, because I believe that there are two or three amendments which, coming from that side, would have made this process less contentious.

Several witnesses pointed out that the Prime Minister, then Leader of the Opposition, promised there would not be a tax on income trusts. Individuals and companies acted on that assurance, and they are now suffering significant financial loss due to breach of promise.

That point was also made with respect to Saskatchewan in relation to non-renewable resources, and with respect to Newfoundland and Labrador and Nova Scotia in relation to the offshore agreements. They were assured that there would be no change; yet there have been changes. They were assured that the offshore agreements would be honoured, and there is now no indication that they will be honoured.

Honourable senators, on equalization, Bill C-52 provides the option of opting for 50-per-cent natural resources or 100-per-cent natural resources. Under Bill C-52, Newfoundland and Labrador can opt for the new equalization agreement or accept offshore with a cap. Nova Scotia has the option of doing the same thing. If Bill C-52 is passed in its current form, there is a possibility of at least four different equalization programs operating in this country.

Honourable senators, we could continue this debate for some time. When the Minister of Finance delivered his budget in March of this year, he said that with this budget the debate on equalization is over. I believe that statement was somewhat premature.

Health and social science transfers are another area we discussed. The significant item is the per capita transfer and no longer having the associated equalization in that other form of transfer, which results in a significant change in how much will go to various provinces.

We asked the Minister of Finance and his officials for projections, because provinces are being asked to choose options. We wanted a projection over a number of years on how this choice will play out so that reasoned decisions could be made. We were told that they have never done such projections. They could not give us any projections. We asked how the decision could be made. They said that the provinces must do the projections.

The Atlantic Provinces Economic Council prepared some projections on behalf of the provinces, and Dr. Hobson and Dr. Locke, who made the projections, appeared before us. We asked them what the impact would be of this form of equalization. They said that if Nova Scotia went to the new equalization program proposed in this bill, they would receive \$1.4 billion less during the life of the Atlantic accords. New Brunswick would receive \$1.1 billion less; Prince Edward Island would receive \$196 million less; and Newfoundland and Labrador would receive \$1.4 billion less.

Those figures have not been challenged by any of the witnesses we heard from, although we asked them to challenge the figures. We asked Dr. Locke and Dr. Hobson if they had prepared

projections for other provinces. They said that they had and that they would produce them for us. They said that those projections show the same pattern for the first two or three years, depending on the province. It gets better under the new program, and then it gets worse. If you go out for a period of five to 10 years, it gets seriously worse, including a significant reduction over the long term for the Province of Quebec. We asked them if they had done a similar type of projection with respect to health and social transfers. They indicated that they had and that they saw the same pattern with the change that is occurring per capita.

• (1650)

Honourable senators, in the short time that I have left, I would like to go through some of the other items in Bill C-52 to counter a misunderstanding that is being perpetrated that this is a money bill. This is not a money bill. Honourable senators heard me speak on a money bill two days ago. I recommended, even though it was a government money bill, that we should support it, and I believe that. This has some provisions from Budget 2007, but it has much more that has nothing to do with the budget. This is an omnibus bill that has several different subjects in it. I will point them out.

If honourable senators are convinced, as I am, that this is not a money bill and is not a budget bill but a bill that has the implementation of some aspects of the budget plus many other things, then there is no reason we should not consider this like any other bill and make the amendments we think we should make to it. It will not cause a constitutional crisis. There is nothing wrong with our making an amendment to this bill. We are not a chamber of confidence. We can make amendments to this bill as we would make amendments to any other bill.

Honourable senators, allow me to go through some of the points. Part 7 of this bill is amendments to the Financial Administration Act. We did not have time to look at this, but it changes the right of government to borrow money without parliamentary approval. There used to be a fiscal year limit of \$4 billion if they were short on funds before they came back to get approval from Parliament. That has been deleted. Clause 85 should be looked at. Is it taking away parliamentary oversight of the executive? That is the question I leave with honourable senators. I suggest that it might. I suggest that should be studied.

Part 8 deals with amendments to Canada Mortgage and Housing Corporation with respect to borrowing purposes. Instead of Canada Mortgage and Housing going out and borrowing money and issuing bonds, the government will borrow the money and lend it to Canada Mortgage and Housing Corporation. This is not a money bill issue; it is a machinery of government issue, which is important, but not a money issue.

Part 9 of the bill deals with Canada Deposit Insurance Corporation, bankruptcy and insolvency. With all of these different provisions, honourable senators will see there are definitions of eligible financial contracts. If one looks at page 105 of this bill and the various definitions within this of eligible financial contracts, one will see a definition of eligible financial contract that appears in one act and then eligible financial contracts as referred to in another act. When one goes to a third

act, one finds the definition again. These are important legal issues. Are the definitions the same? Why are these terms being repeated in different acts and not all referenced to a single definition if it is the same word?

There are concerns that I have from reviewing the proposed legislation that have not been referenced here, but more importantly, they point out that this is not a money bill; it deals with many other items. When the income trust people came to speak to us, they spoke about the Hallowe'en Day tragedy. They pointed out that this announcement was made on October 31. That was not in the budget. Why is all of this income trust legislation appearing in a bill described as "budget implementation"? Senator McCoy was right that these matters should be in another bill so we can deal with this separately. However, they are put in here.

Honourable senators will find several references in Part 11 to funding, one being the Rick Hansen Foundation, \$30 million. I ask, who will object to that foundation getting those funds? I also ask myself, why is that in this budget? Why is that in this bill? That came out of the budget from last year. Several Part 11 items came out of last year's budget. Why were those items not in the supply bill?

If one wanted to be cynical, one could say that someone sat back and said, "We have to put some of these motherhood items in this bill so that the parliamentarians will move this through quickly; they would not dare object to it."

Honourable senators, those are just some of the items that one will find in a close reading of this bill. I leave by urging the consideration of each of these amendments in its own right, items that deal with dollars being released to the executive so they can run the country. We have a special consideration to look at those closely but, in the end, amended or otherwise, to offer our support to the government, because they are the government and that is where money bills start.

One other item: I suggest to honourable senators that when we are asked to pass a bill, Bill C-52, that we know breaks an existing law, then we have another responsibility not to do so. I fully support Senator Baker on his amendment in that regard, and I would respectfully request that honourable senators do likewise.

**Hon. Anne C. Cools:** Honourable senators, I would like to add a few words in support of what Senator Day had to say about the phenomenon of money bills. I had hoped to put the question to Senator Angus, but he stepped out of the chamber.

In his remarks, Senator Angus insisted that this was a money bill and that all the authorities and experts agree that such a bill cannot be amended, blocked or rejected. In other words, in respect of what he said was a money bill, the Senate would be merely a total impotent, incapable of taking any positive action whatsoever.

Senator Angus is wrong and Senator Day is correct. The term "money bill" is not helpful in the constitutional lexicon of Canada. It is not helpful at all, and I shudder because, invariably, when the government uses those words, it is as a way of gutting the powers of the Senate and denying the full constitutional role of the Senate.

The BNA Act, 1867, if one would look to it, does not employ the words "money bill" whatsoever. The closest thing, and it is not even that close, is what it calls "money votes." That is only relevant and helpful to a point. It is not helpful when the government declares to the press and the media and everyone that this is a money bill and the Senate dare not touch it.

• (1700)

Honourable senators, I come back to this point: The only limitation on the powers of the Senate in respect of any financial bills is section 53 of the BNA Act. I will read it again. Senator Joyal put this on the record last week, and it seems it is the kind of thing that must be repeated again and again because sometimes perhaps the government does not or will not hear, or will not understand. Section 53 states:

Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

Therefore, the only limitation whatsoever on the Senate is on appropriations and on raising taxes. The limitation is that they must originate in the House of Commons. Within the Senate, the Senate is free to amend, to reject, to repudiate and to defeat these bills.

Honourable senators, I have not looked at this for a little while, but I will try to offer senators an explanation of a money bill. It is the peculiar and esoteric language of the Parliament Act of 1911, which was brought about — and I have not thought about this for a while — by the Government of Herbert Asquith, later Lord Asquith and the Chancellor of the Exchequer or the Minister of Finance at the time was David Lloyd George.

The Parliament Act, of 1911 — and it does not apply in Canada — essentially gutted many of the powers of the House of Lords in respect of these issues and employed the term "money bill." Where it talks about money bills, it is extremely specific because a money bill is only a money bill based on the certification from the Speaker of the House of Commons. It is an extremely esoteric thing, it is peculiar, and it has a specific meaning as defined within the Parliament Act of 1911.

Honourable senators, essentially what the Parliament Act of 1911 said was that if one of these bills was to pass the House of Commons and be rejected in the House of Lords — I forget the period of time — at the end of the day it can receive Royal Assent without the assent of the House of Lords.

Honourable senators, when we come to the Senate, we must understand that these changes occurred in the U.K. in 1911. When the Fathers of Confederation sat down in 1867, they were very well aware of the movement within the U.K. at the time towards limiting the powers of the House of Lords and towards assuming total control over these categories of bills.

The Fathers of Confederation chose to reject all of that and, instead, make the Senate of Canada stronger in respect of those kinds of bills and those kinds of financial matters, precisely so that the Senate could do what the government keeps saying it cannot do. There was the fear that the Fathers of Confederation had concerning the fact that the government could raise money in



one region of the country and spend it in the other. When one thinks of the conditions that pertained and the tendencies that were in motion in the U.K., the Fathers of Confederation set out to give the Senate greater powers than the House of Lords had at the time, and simply chose to ignore the trends in the U.K. at the time.

Therefore, honourable senators, whenever some of these government individuals or ministers start to babble about money bills, just take it with a grain of salt. The fact of the matter is that this Senate has not only the power, but also the bounden duty to uphold the wishes and the interests of the population. Every senator has a special duty to his or her particular region.

I am quite sure Sir John A. Macdonald would have agreed with those senators from their different regions as we are hearing them express their opinions one after the other. I have no doubt that Sir John A. Macdonald would have been right there defending his own region if his own region was being trampled upon; that is, of course, if Sir John A. Macdonald had been a senator.

I wanted to put that out and support Senator Day. I shall be voting for this bill, but perhaps, if I were a Maritimer, which I am in my heart having been born on an island in the Caribbean, a maritime country, and since I have just heard the Atlantic Ocean, with those brilliant, beautiful, gorgeous waves that come rolling in, perhaps I could be persuaded to join him,

**Senator Trenholme Counsell:** Join us.

**Senator Cowan:** Listen to us.

**Senator Cools:** To date you have not persuaded me.

**Hon. Hugh Segal:** Would the honourable senator take a question?

**Senator Cools:** Happily.

**Senator Segal:** I will not put the question to the honourable senator in the context of her being a putative Maritimer; I will leave that for a future discussion.

However, because of what Senator Day said relative to the inclusion of various different fiscal flotsam and jetsam in this bill, in terms of her own experience of dealing with financial bills through this house, would it strike the honourable senator that the nature or the content of this bill is any different in terms of what the Department of Finance tries to put into a piece of legislation than might have been the case for many other bills received, for example, over the last 15 years?

**Senator Cools:** This bill is somewhat different in that usually within these kinds of constraints governments try to be not as provocative as this government is being. The Senate's treatment of these kinds of issues and these kinds of bills is very different from that of the House of Commons. For the most part, senators are reluctant to maltreat bills of a certain nature — I do not want to say the words "money bills" — because they understand that the consequences can be dire.

There used to be other kinds of bills, but we do not have them anymore. I see Senator Murray peering down the house at me. We used to have other bills, for example, what we called "borrowing bills." I remember some big knockdown, dragged out arguments

on those. The fact of the matter, and my own personal opinion, is that the government has been far too provocative on this particular bill.

Honourable senators, I might as well put this on the record: I have a hard time with this government's ill-considered and intemperate statements about different premiers of the Maritime provinces. Even when there is disagreement, I like to believe that we should all be working for our own people. There is no need, for example, for the government to describe Premier Danny Williams of Newfoundland as "a fraud." Those kinds of statements put me off.

I also want honourable senators to know that if I were in charge of this bill, believe me, I would have dealt with all the questions long ago. The unfortunate thing is that the government side really does not answer the questions that are put by senators.

I do not know if the Honourable Senator Carstairs is here, but she will remember that whenever I did those bills, as some other senators may also remember, and the honourable senator actually saw me sponsor a supply bill here in April, soon after the Conservative government took over, I was ready for every eventuality and every single question that was to come. I was not prepared to be dismissive of senators. This government has a problem and the problem is its attitude and how it treats people.

**Some Hon. Senators:** Hear, hear!

• (1710)

**Senator Cools:** It is a terrible thing. I feel like saying to some of these government people that they should go and take a basic 101 course in human relationships. It is very important, and I want honourable senators to see that. There is no one on this side really defending the bill. That is a characteristic of this government: It hardly defends its own positions, but it uses a lot of force and a lot of coercion.

**Some Hon. Senators:** Hear, hear!

**Hon. Wilfred P. Moore:** Honourable senators know my concern with several items contained in the Harper budget of May 2007. Having spoken at length on May 8 to my inquiry calling the attention of the Senate to the matters of the Canada Social Transfer and the Canada Health Transfer contained in the Harper budget tabled on March 19, 2007; I will keep my remarks today brief.

Before I speak about the matters that I wish to talk about specifically today, I want to lend my support to the comments of Senators Rompkey and Baker and to touch on something that they did not speak about, but which I think is fundamental to their position and to the position of my province of Nova Scotia. These accords are economic development agreements. All witnesses confirmed that, except for the Minister of Finance. That has been the history of those written agreements. It is even mentioned in them. They are economic development agreements and should be treated accordingly.

**Some Hon. Senators:** Hear, hear!

**Senator Moore:** I remind honourable senators of my alarm at the proposed change in the formula for calculating transfer payments to the provinces. My concerns were amplified as of late during the study of the Budget Implementation Act by the

Standing Senate Committee on National Finance. We heard from many witnesses who testified as to the inequity of the new per capita formula versus the existing formula based on adjusted tax points.

Professor Paul Hobson, from Acadia University, stated:

Moving away from that involves a huge shift of resources in that program in favour of, in particular, Ontario and Alberta, and distorts the whole system of funding post-secondary education, in particular.

Echoing this view were many other witnesses, including representatives from the Governments of Nova Scotia and Saskatchewan. Officials from the Department of Finance were unable to refute the numbers put forward by these witnesses. I believe Senator Day mentioned that. By their own testimony, they have not done their due diligence and they are moving forward to implement a new formula without knowing what the effect might be. They are flying blind.

The seventeenth report of the Standing Senate Committee on National Finance, tabled this very afternoon, recommended that a federal-provincial study be undertaken to determine the impact of per capita cash transfers for the Canada Social Transfer and the Canada Health Transfer and that the government report back before the end of this fiscal year. Honourable senators, it is most unfortunate that the government did not undertake this study before bringing in this budget.

Unlike Finance Canada, other witnesses before us did perform the calculations based on the new formula. According to the Department of Finance from the Province of Nova Scotia, the impact will be severe on eight of the provinces and two of the territories. In terms of absolute dollars, the biggest loser will be Quebec, which stands to lose \$678 million over the next three years. My own Province of Nova Scotia stands to lose \$91 million during the same period. The biggest winners are Alberta, which will gain \$909 million; and Ontario, which will gain \$650 million; according to the Government of Nova Scotia figures.

It is interesting that the nearly \$1.5 billion that was given to Ontario, Alberta and Nunavut equals the sum taken from the other eight provinces and two territories.

Let me provide honourable senators with a perspective on the percentage change in terms of absolute dollars. When we look at it this way, the biggest loser is Saskatchewan, which loses 15.55 per cent of the money it would receive under the existing formula. Most provinces lose just under 10 per cent, including my own province. Again, the big winners are Alberta and Ontario. Alberta will see a 40 per cent increase in transfers, while Ontario would see a gain of about 5 per cent.

This budget exacerbates the disparities among the regions. It serves to widen the gap between the "haves" and "have nots" in our federation. At its core, it reverses the fundamental purpose of the Canada Social Transfer, which was to ensure minimum national standards across Canada.

Not only will we be looking at widening disparities in post-secondary education and social programs, but beginning in 2014 the Canada Health Transfer will also move to this

inequitable new formula. The result will be a massive disparity in the capacity of provinces to deliver health care and the complete abandonment of the commitment to national standards in health care.

Honourable senators, there has been a significant amount of talk in recent days, and indeed here this afternoon, about whether or not the Senate can or should amend the budget implementation bill. Some people seem to be uncomfortable with the idea, even though there is ample precedent for it. There is nothing special about Bill C-52; it is a bill like any other. We send amendments to the House of Commons all the time. More often than not they accept our amendments. In the last two weeks, government ministers have stood up in the Commons to ask that House to approve Senate amendments to Bill C-11, the Transportation Act; and Bill C-31, the Elections Act. They did so because the government considered our amendments and ultimately saw the wisdom in them. We had the courage to ask them to think again on Bill C-11 and on Bill C-31. I do not see why we should not do the same on Bill C-52.

If honourable senator still want to think further about this, I want to quote from something Senator Murray said at the Standing Senate Committee on National Finance yesterday to a representative of the Rick Hansen Foundation. This is very important. Hopefully honourable senators will reflect on this and perhaps see your way clear to support the amendments that have been put before you.

I, for one, will support at least one amendment, if it comes forward, to this bill on those provisions. I do not know what you have been told about the legislative process here or who told it to you, but I want to say that if we decide to amend this bill for good reasons, we will do so on Thursday or Friday, and it will go back to the House of Commons. They will have to meet and deal with it. My experience is that they deal swiftly with these matters. They will either accept our amendment or amendments or they will send it back and tell us that they have not accepted. In any case, the delay might be measured in days rather than in weeks, and I want you to know that.

#### MOTION IN AMENDMENT

**Hon. Wilfred P. Moore:** Honourable senators, with that thought in mind, and in view of my earlier comments, I move, seconded by Senator Phalen:

That Bill C-52 be not now read a third time but that it be amended:

(a) by deleting clause 64, on page 84;

(b) by deleting clause 65, on page 84;

(c), in clause 68, on page 85,

(i) by replacing line 9 with the following:

"68. Paragraph 24.4(1)(a) of the Act is", and

(ii) by replacing lines 22 to 27 with the following:

"ending on March 31, 2014; and";



(d) by deleting clause 69, on page 85 and 86;

(e) by deleting clause 70, on page 86;

(f) in clause 71,

(i) on page 86 by replacing lines 27 to 34 with the following:

**"71. (1) the portion of subparagraph".**

• (1720)

(ii) on page 87,

(A) by replacing line 9 with the following:

**"(2) Paragraph 24.7(1.1)(a) of the Act is",**

(B) by replacing line 11 with the following:

**"(a) for each fiscal year beginning after March 31, 2007, the equalization payment shall be the equalization payment that would be payable to the province for the fiscal year under Part I;**

**(a.1) for each fiscal year in the period begin",**

(C) by replacing line 18 with the following:

**"(3) Subparagraph 24.7(1.1)(b)(i) of the Act",**

(D) by replacing line 29 with the following:

**"(4) Subparagraph 24.7(1.1)(b)(ii) of the", and**

(E) by deleting lines 37 to 41; and

(iii) on page 88, by deleting lines 1 to 40.

**The Hon. the Speaker:** Honourable senators, it was moved by the Honourable Senator Moore, seconded by the Honourable Senator Phalen, that Bill C-52 be not now read a third time but that it be amended — shall I dispense?

**Hon. Senators:** Dispense.

**Hon. Joseph A. Day:** Would the Honourable Senator Moore take a question?

**Senator Moore:** Yes.

**Senator Day:** I do not have the proposed amendment in front of me. Presumably, when we do have a copy of it, it will become apparent what is trying to be achieved by this proposed amendment.

In the interim, however, I would ask Senator Moore to inform the chamber as to the objective of the proposed amendment?

**Senator Moore:** I thank the honourable senator for his question.

The intent and the mission here is to revert to the calculation and distribution of funds into the Canada Social Transfer and eventually the Canada Health Transfer, pursuant to the original formula, not the one found in Budget 2007.

**The Hon. the Speaker:** Resuming debate?

**Hon. Pana Merchant:** Honourable senators, I too wish to state my opposition to Bill C-52.

Governments speak, first, through the agreements they sign and, second, through the commitments of their political leaders. Regrettably, for my home province of Saskatchewan, and for Canadians generally, I wish to speak about six major instances of the government's failure to keep its word to Canadians.

First, the Government of Canada signed the Kyoto agreement with 169 countries and entities. The agreement was signed not by a Liberal government but by the Government of Canada, yet the Government of Canada will not keep its word.

Second, the Government of Canada agreed to the Kelowna accord. There were 11 separate agreements. The Kelowna accord was entered into not by a Liberal government but by the Government of Canada, yet the new Government of Canada will not keep its word.

Third, prior to the last election, Mr. Harper made promises regarding the Metis residential schools, such as Ile-à-la-Crosse, Timber Bay, Montreal Lake, and there are others. Taped records of these promises were aired in Saskatchewan, and they attest to the fact that there is no dispute about what was said. After the election, the government bare-facedly refused to keep their promise to the Metis people. Honourable senators, the Kelowna agreement and Metis schools are particularly important to Saskatchewan and the West because of our large Aboriginal population. Fairness to our Aboriginal people is fundamental. These issues are important to our province.

Fourth, while Leader of the Opposition, Mr. Harper promised "no change" regarding income trusts. Now, as Prime Minister, he has suddenly discovered something new. How could this happen? He had to know the cost of that now-broken pledge.

Fifth, in 2005, the government signed an agreement with Nova Scotia and Newfoundland and Labrador to protect 100 per cent of their offshore resource revenues from clawbacks within the equalization framework. Conservatives' double speak on the 2005 Atlantic accord now include a 2007 cap on payments. All revenues are included in the formula cap, including 100 per cent of resource revenues. This means that Newfoundland and Labrador will get \$300 million less this year; and Nova Scotia will get \$95 million more but will lose in the future. The government has broken its word by purporting to honour the Atlantic accord while creating a new rule which negates it.

Saskatchewan, the hardest hit, will lose more than \$878 million that it would have received if no cap existed.

The sixth promise regarding resource revenue was made to Saskatchewan. That promise has not been kept, either. Astoundingly, when the government is confronted about not keeping its word, the answer is that a good deal was given to

Saskatchewan. However, the fundamental issue is failing to keep a promise, not keeping a promise by half. Stephen Harper and his members of Parliament were unequivocal. They were clear. There was no mention of a cap to us. There was no mention of a clawback.

An excerpt from Mr. Harper's letter to Premier Calvert dated June 10, 2004, stated:

The Conservative Party of Canada will alter the equalization program to remove all non-renewable resources from the formula.

Another excerpt from the 2004 Conservative platform states:

A Conservative government will also revisit the equalization formula. We will move towards a ten-province standard that excludes non-renewable resource revenues from the equalization formula.

The 2006 Conservative platform further states — and I quote:

... work to achieve with the provinces permanent changes to the equalization formula which would ensure that non-renewable natural resource revenue is removed from the equalization formula.

The Conservative Party repeatedly gave its word in letters, in campaign promises and in the House of Commons. It is a grand perversion on the public record, this Conservative Party denial of the undeniable.

It was not just Mr. Harper who made those promises, but virtually every Member of Parliament from Saskatchewan echoed his promises.

Honourable senators, please permit me to illustrate what I am telling you. Here are some of the declarations.

Mr. Trost, Saskatoon-Humboldt, stated:

The matter of equalization has to do with Saskatchewan's natural resources which by right of the Constitution we should have complete access to, we should have total and complete benefit of.

Mr. Komarnicki, Souris-Moose Mountain, stated:

It is our position that non-renewable resources such as oil and gas should not be in the formula.

Mr. Lukiwski, Regina-Lumsden-Lake Centre stated:

Will the minister stand in this House today and do what is right, do what is fair, and simply commit to the elimination of the clawback provisions.

• (1730)

Mr. Anderson of Cyprus Hills—Grassland, said:

It was interesting to hear him say that equalization is not really about equality. We know that the current equalization formula is flawed. This change should be a slam dunk.

Ms. Yelich from Blackstrap, said the following:

Representatives of the people of Saskatchewan are obliged to speak out against an equalization system that penalizes our province with an over-emphasis on non-renewable resources.

Mr. Batters, from Palliser said:

To put it into perspective, a new equalization deal would have meant an additional \$750 million for Saskatchewan, my province, this year alone.

Mr. Vellacott from Saskatoon—Wanuskewin said:

It is estimated that Saskatchewan, had it received that same deal a decade ago, would have received an additional \$8 billion for the province from non-renewable resource revenues.

He continued:

In regard to the equalization, Saskatchewan is being treated very unfairly.

Brian Fitzpatrick, the long-serving and respected Saskatchewan Conservative caucus chair wrote to the Prime Minister demanding, "compliance with our commitment."

During the last election campaign, a letter from Stephen Harper, dated January 4, 2006 to Premier Danny Williams of Newfoundland and Labrador guaranteed:

We will remove non-renewable natural resource revenue from the equalization formula to encourage the development of economic growth in the non-renewable resource sectors across Canada.

In a mailing to Newfoundland and Labrador residents in Stephen Harper's name, as Leader of the Opposition, stated clearly:

The Conservative Party of Canada believes that offshore oil and gas revenues are the key to real economic growth in Atlantic Canada.

That is why we would leave you with 100 per cent of your oil and gas revenues. No small print. No excuses. No caps.

Finance Minister Jim Flaherty told reporters in St. John's on Wednesday, March 8, 2007:

I can say, as the Prime Minister has said, that we will respect the Atlantic accords. That is firm; we will continue to do that.

Honourable senators, amazingly, the Conservative Party now relies on small print, excuses and the very caps on payments to provinces that Stephen Harper guaranteed would not be used. You give your word, you keep your word. It is not a matter of we almost did as we promised, or you are still being treated better than before. That is what is being said of Saskatchewan equalization.



It is not a matter of I have another good deal for you. That is what they say of the Atlantic accord. It is not a matter of the Liberals made that commitment and we disagree. That is what they say of Kyoto.

It is not a matter of we will do something good instead; that is what they say of the Kelowna accord.

It is not a matter of now we are in power, we will not do the fair thing about the Metis people; in essence what they say of Île-à-la-Crosse and the Metis residential schools.

It is not a matter of what I promised costs too much. That is what they say of income trusts. You keep your word or you do not.

Honourable senators, generally, if the other place had come forward on issues of taxation, I would defer to what they had done. I respect the constitutional authority of the other place on money bills, but respectfully cannot in this instance because of the many issues of changed view, and because the people of Saskatchewan and Canada have every right to say: We were misled.

Each of us in this house and the other place took a pledge to Canada, not to our political parties. In part, that was a pledge to our provinces and to fair dealing to all provinces. For fair dealing with Saskatchewan, for keeping our promise as a government and, as Premier MacDonald put it here recently: To restore honour to the Crown, I am opposed to Bill C-52.

**Hon. Jane Cordy:** Honourable senators, I too would like to speak on Bill C-52, to implement certain provisions of the budget. As others have done earlier today, I also congratulate members of the Finance Committee, particularly the chair, Senator Day, for the work they have done in examining the bill. I would also like to thank him very much for allowing those of us who are not normally on the committee the ability and the opportunity to participate fully in the hearings.

Today I will speak about the Harper government's treatment of the people of Nova Scotia and Newfoundland and Labrador and the effect that Bill C-52 will have on the Atlantic accord.

Honourable senators, the Nova Scotia offshore revenue agreements and the Newfoundland and Labrador offshore agreements, known as the Atlantic accords, were signed by the federal government and by the Governments of Nova Scotia and Newfoundland and Labrador in 2005. These accords were signed in good faith, and while they were signed by a Liberal government in Ottawa, they were most certainly supported —

**The Hon. the Speaker:** Order. Honourable senators, conversations will have to go outside the house. The chair is having trouble hearing the honourable senator who is speaking.

**Senator Cordy:** These accords were signed in good faith. While they were signed by a Liberal government in Ottawa, they were most certainly supported by the then opposition leader, Stephen Harper. In fact, during the 2005-06 federal election campaign, Mr. Harper supported the accords and stated:

We will remove non-renewable resource revenue from the equalization formula to encourage the development of economic growth in the non-renewable resource sectors

across Canada. The Conservative government will ensure that no province is adversely affected from changes to the equalization formula.

Honourable senators, a brochure sent to Atlantic Canadians in 2005 once again conveyed Mr. Harper's support for the Atlantic accords. This brochure states:

The Conservative Party of Canada believes that offshore oil and gas revenues are the key to real economic growth in Atlantic Canada. That is why we would leave you with 100 per cent of your oil and gas revenues. No small print. No excuses. No caps.

We have heard this before. It is worth repeating, but I am sure others may also use the same quote in their speeches.

It is now clear, however, honourable senators, that in 2007 Canada's new Conservative government never liked this deal signed by Nova Scotia and Newfoundland and Labrador and that they intended to break the deal shortly after they formed government.

Honourable senators, in Bill C-52, the Atlantic accords, legal contracts signed in good faith, are broken. The accords are economic development agreements between the federal government and the provincial governments, plain and simple. They are not tied to the equalization program. In fact, the Department of Finance for Canada website states:

... offset payments under both the 1986 accord and the 2005 arrangements are separate from the equalization program.

That was on June 19, 2007.

Clause 4 of the Atlantic accord guarantees that Nova Scotia and Newfoundland and Labrador will be full beneficiaries of their offshore resources with no "claw-back" of equalization benefits over the life of the agreement, no matter what equalization formula is in effect at the time. I repeat: No matter what equalization formula is in effect at that time.

Honourable senators, we now hear that the Governments of Nova Scotia and Newfoundland and Labrador have two choices. There is no mention of choices in the Atlantic accords. There is no mention of choices in the brochure sent to Atlantic Canadians by the Conservatives — the "No small Print. No excuses. No caps." brochure. There was no mention of choices by Mr. Harper during the last federal election.

• (1740)

Honourable senators, the Atlantic accords were agreements. They were contracts, and they have been broken. Those of us from the Atlantic provinces remember that, at one point in 2005, discussions broke down because there was a suggestion that there would be a cap. Nova Scotia and Newfoundland and Labrador were not prepared to sign any agreement that involved a cap. Indeed, the accords were not signed until it was agreed by the federal government that there would be no cap.

At the Senate National Finance Committee meeting held on Tuesday, June 19, the Minister of Finance, Mr. Flaherty, in response to a question from Senator Baker about

clause 80 of Bill C-52 — clause 80 comes under the heading “CONSEQUENTIAL AMENDMENTS: Canada—Newfoundland Atlantic Accord Implementation Act” — as to whether there were amendments in the bill to the Atlantic accord, Mr. Flaherty replied:

Yes, there are amendments to provide optionality.

Honourable senators, there are amendments despite the fact that the Atlantic accords of 1987 and 1988 state the following:

Except by mutual consent, neither government will introduce amendments to the legislation or regulations.

There are amendments despite the fact that the 2005 accords state:

... that neither government will introduce amendments to this Act or any regulation made thereunder without the consent of both governments.

Honourable senators, these agreements are legal documents. They are contracts. They were signed in good faith. They were not to be amended unless agreed to by both governments. They are legal documents in Canada. They are legal documents in Nova Scotia. They are legal documents in Newfoundland and Labrador.

In his testimony before the National Finance Committee on Tuesday, June 19, Mr. Michael Baker, the Minister of Finance for Nova Scotia stated the following:

I can indicate to the committee that the position and the message our officials consistently sent to the Federal Minister of Finance and his officials was that no modification to the offshore accord would be acceptable to Nova Scotia. At no time, in no meeting was there ever any suggestion that we would consent in any way, shape or form to an amendment to that accord agreement. Certainly Minister Flaherty never suggested to me that we would even be asked to do that.

Honourable senators, despite the provisions in the accords that any amendments must be agreed to by both the federal and provincial governments, Mr. Flaherty has what he terms “amendments to provide optionality.” This was done unilaterally and arbitrarily. He broke the deals. Bill C-52 breaks the spirit and the intent of the accords.

Honourable senators, I wish to quote testimony from Senator Murray, who always has a way of getting to the substance of the issue quickly. This was at the Tuesday, June 19, National Finance Committee.

**Senator Di Nino:** In his own mind.

**Senator Cordy:** His comments and questions were directed to Premier Rodney MacDonald and the Minister of Finance for Nova Scotia, Michael Baker. Senator Murray stated the following:

The three main questions I wanted to ask have been answered in the presentation of the premier and his minister:

Does Bill C-52 amend the Atlantic accord? The answer is yes.

Did you consent to those amendments as required under the accord? The answer is no.

Is the Atlantic accord an economic development agreement or equalization? The answer is it is an economic development agreement.

Thank you for your wise words, Senator Murray.

The Prime Minister spoke out strongly in support of this agreement, and yet Canada's new Conservative government, not yet in government for two full years, has failed in its obligation to honour these economic development agreements. They have unilaterally amended the accords despite the provisions that do not allow for amendments without the agreements of the provinces. These economic agreements would have helped our provinces to become have-provinces. These economic agreements would allow our young people to live at home and not to have to move to Ontario or Alberta. These economic agreements would allow us to become stronger provinces, to build a stronger Canada, to have equal opportunity within this great country of ours.

Honourable senators, we in Atlantic Canada should be able to believe in the signature of the Government of Canada.

Honourable senators, Atlantic Canadians are disappointed. We have been betrayed by this government and by Prime Minister Harper. Nova Scotia and Newfoundland and Labrador are small provinces, but we believe that a deal is a deal. We believe that contracts signed by the Governments of Nova Scotia and Newfoundland and Labrador should be honoured. We believe that a promise made should not be broken. We believe that accords signed in good faith should not be amended unilaterally.

Honourable senators, we believe that no Prime Minister who breaks a deal should simply say, “So sue me.”

Honourable senators, a strong Nova Scotia and a strong Newfoundland and Labrador make a stronger Canada, and is that not what we all should want?

**Hon. Lowell Murray:** Honourable senators, a few moments ago my friend the Leader of the Government made a comment. I am not sure it got on the record, but I will place it there. She commented that I am a Cape Bretoner who happens to be sitting in the Senate for the Province of Ontario. That is true. Let me say that I aspire to represent a Progressive Conservative tradition in Ontario, represented by John Robarts and Bill Davis, a tradition to which, when we were both a lot younger and she was more idealistic, we both subscribed.

• (1750)

In 1977, when Prime Minister Trudeau proposed that half the federal contribution to some social programs would henceforth be by the transfer of tax points, Premier Davis, who represented Ontario, and Premier Lougheed, another Progressive Conservative representing Alberta — whose provinces would be the main beneficiaries of transfer of tax points — did not say that to equalize those tax points for the others was hidden



equalization, or unequal treatment of Ontarians and Albertans, or unfair. They did not say that because they recognized full well that the only fair way to treat Canadians equally, the only way to make a tax transfer work, would be by equalizing those tax points.

Since I am on that subject — and Senator Moore has spoken well about it and presented an amendment — let me say that the provincial-territorial panel, of which I was a member, when we reported, agreed that the tax points should be more transparent and that the associated equalization accompanying the tax points should be more transparent. We proposed the establishment of a tax point adjustment fund to take the place of the associated equalization. It would be set apart and paid out to the recipient provinces.

The problem with the present government is that they decided to go to equal per capita funding for these social programs, but they did not establish the tax point adjustment fund. They said they would take care of that in an enriched general equalization program. Not a single recipient province agrees with them; and believe me, those provinces sharpen their pencils and do their sums, and they are right about that.

The new Canada Social Transfer will blow up in the faces of the federal government. It will not happen this year, maybe not next year, but blow up it will and they will have to go back to the drawing board. Of that, I have absolutely no doubt at all.

I support the three amendments before us, and when those amendments are passed — as I hope and expect they will be — I will gladly facilitate the passage of this bill through the Senate and its return to the House of Commons, as amended, where our elected friends will have some decisions to make.

With regard to the amendments proposed by Senator Baker and Senator Moore, it bears stating that those amendments are as one with two reports that the Standing Senate Committee on National Finance presented on equalization, the most recent of which was tabled before Christmas last year; and as one again with the report on the vertical fiscal imbalance that Senator Day, as chairman of the committee, tabled in this place. If honourable senators examine those documents and the amendments that have been made by Senator Baker and Senator Moore, they will see what I am talking about. Honourable senators will understand that they are exactly on the same page.

A lot of opprobrium has been heaped recently — mostly by pundits and commentators — on the head of former Prime Minister Martin for having concluded the 2005 Atlantic accords with Nova Scotia and with Newfoundland and Labrador. The opprobrium I saw most recently reflected in *The Globe and Mail* this morning in an op-ed piece by Professor Boessenkool.

The accords that were signed by the Martin government in 2005 with Nova Scotia and with Newfoundland and Labrador are entirely consistent; indeed they simply carry out the spirit and intent of the accords signed by the Trudeau government with Nova Scotia in 1982, and by the Mulroney government with Newfoundland in 1985 and with Nova Scotia in 1986. That is what the Atlantic accord of 2005 does.

These accords, as I suggested, go back to the 1980s. As several honourable senators have pointed out, these accords were and are economic development agreements. The first objective was to

encourage the economic development of those provinces through the exploration and development of their offshore resources. The second objective was to ensure that those provinces would be the “principal beneficiaries” of that development.

Indispensable to those objectives was the guarantee that what the provinces gained from the offshore, they would not lose through reductions in their equalization payments, therefore offset payments were provided for under the Atlantic accords. Someone has already placed on the record what the Department of Finance website said about those offset payments. While I would have to look through this pile of paper on my desk to find the exact quotation, what they are saying is that those offset payments are separate from equalization.

It is said that we must never create a situation in which the fiscal capacity of a recipient province is higher than that of a non-recipient province. Of course, that will happen if we include the offset payments under an economic development agreement to Newfoundland and Nova Scotia as part of the fiscal capacity of a province. It will happen with Saskatchewan if we decide that we will measure 100 per cent of the resource revenues for their fiscal capacity, but 50 per cent for their entitlement. This is the deliberately perverse working of this new formula.

I suggest to honourable senators that the possibility that one or another of those provinces, from time to time, would have its fiscal capacity rise higher than the national average or higher than a non-recipient province, to put it that way, is the scenario that was contemplated.

Let me quote what Mr. Chrétien said, as Minister of Energy, Mines and Resources, when he tried to persuade the Newfoundlanders to agree to the same sort of agreement that Nova Scotia had. This was in April 1984. When would the provincial government be expected to share some of these revenues with other Canadians?

We are talking about revenues now. He said:

Not until the Newfoundland government's fiscal capacity reached 110 per cent of the national average, with an adjustment for regional unemployment that would now raise this to about 125 per cent. In relative terms, this would mean that the Newfoundland government wouldn't be asked to share any revenue until it was the second-richest province in Canada — second only to Alberta; about 40 per cent richer than Ontario . . .

Chrétien did have a gift of the gab.

. . . and twice as rich as you and your neighbours in Atlantic Canada are today.

Then he asks:

How much would the new offshore revenues be offset by a one-for-one loss of equalization payments? To be fair, any province's equalization payments should reflect new additional revenues, but we have a provision under the current equalization formula that guarantees equalization payments will not decline more than 15 per cent per year; and in the Nova Scotia agreement, there is a provision that

guarantees the province will receive payments to offset the reduction in their equalization payments. These payments will decline over time but provide major protection in the early years.

This is what brings me to the 2005 accord. The scenario was contemplated, but not forever. There were timelines on those accords. The problem was that the pace of exploration and development did not coincide with the timelines that had been envisaged in the 1982 and 1985 agreements.

Therefore, Mr. Mulroney went back to Nova Scotia in 1986, and Mr. Martin went back to both Newfoundland and Nova Scotia in 2005 to renew those accords and to take account of what had not happened.

Even the 2005 accords are not forever. They go until 2010-11, with a possible extension for eight years if those provinces are still receiving equalization.

Honourable senators, I think the most troubling aspect is the one that has been referred to by a number of speakers, and that is the obvious abrogation, the betrayal, the breaking not of an electoral commitment — perhaps an electoral commitment also — but more seriously, an agreement duly signed by the Government of Canada with the Government of Newfoundland and Labrador, in one case, and with the Government of Nova Scotia. I invite honourable senators, seriously, to reflect on what that portends for harmony and unity in our federation if we allow it to happen.

• (1800)

Senator McCoy spoke very eloquently today about what happened with the National Energy Program. It has taken almost 25 years and we are still dealing with the psychic, emotional and political fallout of that in the province of Alberta. There is no mistaking what the feeling is in Atlantic Canada today on these matters.

This is a chamber of sober second thought. There is absolutely nothing irregular or untoward that we should amend provisions like these. Early in the mandate of the Chrétien government, we defeated the Pearson airport bill because it broke a contract signed with the private sector.

I am not asking anyone to defeat the budget bill; I am saying that it is entirely appropriate for this chamber to amend that bill in those respects and to restore what Premier Rodney MacDonald so aptly described as “the honour of the Crown.”

**Some Hon. Senators:** Hear, hear!

**Hon. Terry Mercer:** Honourable senators, it is a sad day when I have to stand in my place and lament the lies and deceit of a government because that is exactly why we are here.

**The Hon. the Speaker:** Honourable senators, it is now six o'clock. Is it the will of the house not to see the clock?

**Hon. Senators:** Agreed.

**Senator Mercer:** Honourable senators, according to the *Oxford English Dictionary*, to lie is to say something that is not true in a conscious effort to deceive someone. Deceit is done to trick or mislead someone. That is what the Conservatives are doing with this budget. There is a Gaelic proverb that states that there is no greater fraud than a promise not kept. How true this is of Stephen Harper and his Conservative government.

Honourable senators, I will not be supporting this budget in its current form. Unless the 2005 Canada-Nova Scotia and Canada-Newfoundland and Labrador agreements on offshore revenues, commonly referred to as “the accords,” are honoured by Prime Minister Harper and the language that prevents it from being honoured is removed from the budget. I will be voting against this budget, period. A deal is a deal.

I was in the room in Nova Scotia on the day that the accord was signed in good faith by the Province of Nova Scotia and by the former Liberal government. Maybe others in this place were there as well. Quite simply, it is an effort to allow Nova Scotia and Newfoundland and Labrador the capability to grow closer to becoming “have” provinces. Indeed, it is simply an economic development package designed to do exactly what it should do, and it would benefit all of Canada.

Prime Minister Harper is breaking his promise to all Canadians to honour this deal. A promise is defined in the dictionary as “an assurance that something will certainly happen.” The Conservatives have said in the past exactly what they needed to say in order to get elected, and now it is different. They are breaking their promise and we in Nova Scotia are paying the price.

Honourable senators, if this is being done now, what is next? What else will Prime Minister Harper not honour? The Province of Saskatchewan should be, and is, worried because they have resource revenues as well. As such, I encourage all honourable senators from Saskatchewan to strongly consider how they will vote on this budget.

Honourable senators, the Senate of Canada has a duty to examine all proposed legislation. The budget is no different. Contrary to what some have said, the Senate is not a confidence chamber and, as such, cannot initiate the fall of the government or initiate fiscal legislation. However, the Senate can amend any bill that comes before this place. Again, the budget is no different.

Quite frankly, I am sick and tired of hearing the musings from the other side that we are not doing our jobs properly and that we are interfering with what the government wants. Honourable senators, we are doing the exact jobs that we are here to do.

During the last election, the Conservatives said that they believed that offshore oil and gas revenues are the key to real economic growth in Atlantic Canada. How quickly they forgot their own words. I will table the pamphlet, honourable senators, that was used during the last election campaign and that states, and all honourable senators know the words by now:

... That's why we would leave you with 100 per cent of your oil and gas revenues. No small print. No excuses. No cap.



Yet, the Conservatives will stand here and the Prime Minister will say that they have broken no deals and that they have honoured the accords. They will say that the new equalization formula is good for our provinces. The formula may well give Nova Scotia and Newfoundland and Labrador more money this year, honourable senators, but if we accept the new formula, they are capped on the offshore revenues. Honourable senators, I say, shame on that, shame on them. That is not keeping their word. That is breaking the promises of the accords. Lies and deceit — that is how I categorize it.

Experts are saying that the proposed new equalization formula, which includes a cap on offshore revenue, will create a loss situation for Nova Scotia to the tune of — listen to this — \$1.4 billion.

**Senator Cowan:** How much?

**Senator Mercer:** It is \$1.4 billion. Imagine that. That is what we are losing if this budget passes in this place today or tomorrow.

Again, I say shame on the Conservatives for even attempting to pull the wool over our eyes. We are smarter than that. Stephen Harper's own caucus member is smarter than that. I congratulate our colleague in the other place, the Honourable Bill Casey, for standing up for his province and voting against the budget. Look what it got him. However, honourable senators, Bill Casey can look the people of Nova Scotia in the eye when he walks down Main Street in Truro or Amherst. Can Peter MacKay do that? Can Gerald Keddy do that? No.

Honourable senators, there are also members in other place who voted for this budget: 12 Conservative members from Saskatchewan, including one cabinet minister, as well as Norman Doyle, Loyola Hearn and Fabian Manning, Conservative MPs from Newfoundland and Labrador. The list of names represents the new endangered species list for Canadians. They will have to face their citizens when they go home and explain why they put their provinces in jeopardy, just as Peter MacKay and Gerald Keddy will have to do.

With the budget before us, it is up to honourable senators to think about their decision. Senator Andreychuk and Senator Tkachuk from Saskatchewan will have to decide whether they will vote for Saskatchewan. Senator Cochrane will have to decide whether she will vote for Newfoundland and Labrador.

Senator Oliver and Senator Comeau will have to decide whether they will vote for their home province of Nova Scotia. I urge honourable senators to think about their decision and how they will vote today. Will they be able to walk down the streets in their communities and face their constituents?

Honourable senators, I will be able to face the people in my community, as will many here today. I will be able to walk down Barrington Street in Halifax. I will be able to tell the people at the Ward 5 Neighbourhood Centre in North End Halifax that I stood up and represented their concerns. Will my colleagues from Nova Scotia here and in the other place be able to attend the next annual meeting of the Nova Scotia Progressive Conservative Party and face their fellow members? I do not know if I would want to be in their shoes walking into that room.

Honourable senators, the Atlantic Provinces Economic Council has studied this budget in detail. They have said that Nova Scotia will lose, again, approximately \$1.4 billion if this budget passes, regardless of what my province chooses to accept in the budget. That is clearly written in their report. I would be happy, honourable senators, to table that report along with the brochure I mentioned earlier.

Unless their math, my math and the math of thousands of Nova Scotians and Newfoundlanders and Labradoreans is wrong, we stand to lose exactly what the Conservatives know we will lose — over \$1.4 billion.

• (1810)

Elizabeth Beale, President and CEO of APEC, has stated in an email to the Senate of Canada — and I quote:

Our concerns are that the Budget measures in aggregate, rather than achieving fiscal balance, will enhance the divide between the “have” and “have-not” provinces.

Are we not supposed to be going the other way, honourable senators? A deal is a deal. That is what Nova Scotians believe. That is what I believe. That is why this budget should not be passed in its present form.

However, Canada's growing-old government will not budge. They will still not admit that they have broken their word, not only to Nova Scotia and to Newfoundland and Labrador, but to all Canadians.

Honourable senators, how much of a good investment are the accords, even to the people of the richer provinces such as Ontario and Alberta? The premise behind Confederation was to ensure that all provinces are equal. To ensure this equality of service and standard of living, an equalization program was put in place to help make that happen.

We in Nova Scotia, and in Newfoundland and Labrador, have an opportunity to benefit from equalization and to benefit from the offshore revenues. Surely, we can see that this will effectively bring us closer to parity and may, some day, save all Canadians money.

Honourable senators, if the Conservatives cannot be trusted to honour this deal, what is next?

On April 2, 2007, the Conservatives announced the Strategic Aerospace and Defence Initiative worth \$900 million over five years. After cancelling the Liberal government's Technology Partnerships Canada program, the Conservatives reintroduced a pale imitation to take its place, which offered 40 per cent less money than the program the Conservatives cancelled.

Is that just the beginning of the cuts to the Quebec aerospace industry? In light of the Conservatives' commitment to the Atlantic accords, will they cut funding in the future to Quebec aerospace? Will they honour that deal?

As for the auto industry, between October 2004 and June 2005, the previous Liberal government committed over \$355 million in Ontario, creating thousands of jobs and maintaining thousands more. Nothing — I repeat, nothing — was directly targeted for

the auto industry in Minister Flaherty's fall fiscal update or the Budget 2007. Is this a sign of future times? Will the Conservatives support the auto industry in Ontario in the future? Will they, perhaps, cancel funding that the previous Liberal government set in motion?

Honourable senators, the overall question here is this: How can Stephen Harper's Conservatives be trusted to honour any of their words when they have clearly broken their word to Atlantic Canadians?

It is deplorable that a government that promised to end the bickering between the provinces and the federal government can claim to have ushered in a new era of cooperation. Threatening premiers to sue him — I am referring to the Prime Minister — over the accord is the height of irresponsibility and arrogance. This Prime Minister cannot even claim he is credible. Credibility is the ability to inspire belief and trust in people, and Prime Minister Harper cannot do that. By lying about the effects of the budget and deceiving Canadians that he is honouring the accord, the Prime Minister Harper and his Conservatives are far from credible.

Honourable senators, in deliberations of the Standing Senate Committee on National Finance just the other day, Senator Baker asked the Minister of Finance — and you will love this story — Jim Flaherty to clarify whether a letter he had written to the Premier of Newfoundland and Labrador included the words "highest" or "lowest." The Minister of Finance pointed out that there was an error in the letter and that he had to send a second letter to correct it.

In the words of Senator Baker: "It was an \$11-billion typo."

How careless can the Conservatives be? Clearly, they do not actually read what they sign. They do not even read and understand the law. The Atlantic accord is the law.

In the words of John Crosbie, that well-known Progressive Conservative — and I quote:

The people of Nova Scotia and Newfoundland are neither greedy mice who gobble up cheese. . . nor do we, as some federal politicians have accused us, simply want to have our cake and eat it too. What we want is for Ottawa to honour the 2005 Canada-Nova Scotia and Canada-Newfoundland agreements on offshore revenues.

Honourable senators, we want to become self-sufficient but, in order to do so, we must be given the opportunity to try. This government has taken that opportunity away.

I look forward to your vote of support to amend the budget and to show the Prime Minister that all Nova Scotia wants is what we are entitled to — the accord — no less.

[Translation]

**Hon. Pierrette Ringuette:** Honourable senators, although I have not prepared a speech, I would like to speak today because, having attended this week's hearings as a member of the Standing Senate Committee on National Finance, I have many questions.

[English]

Many questions arise from this bill as it was introduced and studied by the Standing Senate Committee on National Finance. Let me start by saying that our first witness was Minister Flaherty. I want to quote Minister Flaherty as saying the following: "All provinces will be better off in this new system."

He was referring to the equalization system.

I have to say that, prior to hearing witnesses at our committee, I called our research people at the Library of Parliament to ask them to get the numbers from the Department of Finance with regard to the future years — that is, the forecast — of the new equalization program that was proposed in Bill C-52. A few hours after my call to the Library of Parliament, I was told by my research people that the Department of Finance officials were refusing to provide numbers because there were different scenarios.

When they came before us at our committee, I asked them again: Why are you refusing to provide us with numbers? We are the Standing Senate Committee on National Finance. It is our job and our obligation to look at these numbers before we either approve or disapprove a bill. It is our job.

**Some Hon. Senators:** Hear, hear!

**Senator Ringuette:** That is with regard to equalization.

I then asked them for the numbers for the social transfer and post-secondary education. They had no numbers to give us.

**Some Hon. Senators:** Shame!

**Senator Ringuette:** I then asked them this: If you cannot give me numbers, please tell me at least that, as advisers to the minister, you have provided the minister with an analysis of what will happen with such a decision and such a change.

Honourable senators, I had to ask four times to get this answer because they were trying to fudge and evade the question.

The final answer was this: "No, we made no cost analysis with regard to the social and post-secondary education transfer."

They made no analysis. They made no recommendation to the minister. Therefore, this new program is totally founded on a political decision alone — a political decision alone.

• (1820)

How can you make a fundamental change to this program after 30 years? It has existed for 30 years because, in 1982, when we repatriated the Constitution, we gave the provinces certain guarantees.

I also asked the officials of the Department of Finance on what grounds they were making this change to a per capita fixed amount for every citizen. They said three times to me that there is no need to measure fiscal capacity.



Honourable senators, I would like to bring you to the Constitution of Canada which contains the guarantees that were given to the provinces and the citizens of Canada.

Section 36 (1) is a commitment to promote equal opportunities. It states:

Without altering the legislative authority of Parliament or of the provincial legislatures, or the rights of any of them with respect to the exercise of their legislative authority, Parliament and the legislatures, together with the government of Canada and the provincial governments, are committed to.

(a) promoting equal opportunities for the well-being of Canadians;

(b) furthering economic development to reduce disparity in opportunities; and.

(c) providing essential public services of reasonable quality to all Canadians.

That is in direct contradiction to what is being done to the Atlantic accord. It is removing opportunities.

Section 36(2) is also in direct contradiction to the proposed changes to the social and post-secondary education transfer. Section 36(2) reads as follows:

Parliament and the government of Canada are committed to the principle of making equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation.

"Reasonably comparable levels of taxation" is a measure of fiscal capacity. Honourable senators, Bill C-52, with the changes to equalization, to the social and post-secondary education transfers, and to health completely denies and removes the constitutional right of the provinces and every citizen of this country to have equal service for equal taxation. That is what Bill C-52 does.

There are some good items in the budget but we, as senators, represent the population of our regions and, as a whole, the population of Canada. It is our duty to uphold the fundamental law of this land, the Constitution. How can we be expected to approve a budget that is fundamentally contrary to the law of this land?

**Some Hon. Senators:** Hear, hear!

**Senator Ringuette:** I am not talking about politics. If they want to talk politics in the House of Commons, that is one thing; if they want to talk politics in the media, that is another thing. I am here speaking for the citizens of New Brunswick and for the citizens of at least eight of the Canadian provinces that are being hurt by these two measures, and that includes Quebec, honourable senators.

This is at least the second piece of legislation that has been introduced in this chamber in the last year that does not comply with the Constitution of Canada.

I will go on to other issues. My honourable colleague Senator Mercer said accurately that Nova Scotia, with regard to the equalization program alone, will lose \$1.4 billion in the next 10 years. That does not count the changes to the per capita system. Under that system, Nova Scotia will be losing much more than that.

Under the old per capita program, if you include the tax points, the associated balancing of the tax points and the cash transfer for social and post-secondary education transfers, the federal government transfers \$500 per citizen. Under the new program, which removes the associated equalization of tax points, it provides only \$289 per citizen.

New Brunswick will lose \$1.1 billion on equalization and more in the social and post-secondary education transfers.

One of my colleagues said that it costs much more in Ontario to provide those services than anywhere else. I did some research. I found a study done by the Caledon Institute, an Ontario-based think tank, in October 2004 for the years 2002 to 2025, in regard to health care spending between New Brunswick and the Canadian average. They average cost for health care in New Brunswick of 4.92 per cent. However, they found:

When we replace the New Brunswick age structure with that of Canada, the growth rate is reduced to 4.41 percent.

• (1830)

To my honourable colleague who thinks that the health care costs are heavier in Ontario than in the smaller provinces with a smaller population distributed over a greater geographic area, I would say that he is definitely wrong.

The other witnesses that we heard talked about the income trusts. They are not happy, and I can understand that. When you are planning to retire and you look at what is available in regard to investment in the open market and you see an opportunity, you invest.

May I have five minutes more?

**The Hon. the Speaker *pro tempore*:** Senator Ringuette is asking for another five minutes. Is five minutes granted?

**Hon. Senators:** Agreed.

**Senator Ringuette:** Initially, the witnesses told us that in the Hallowe'en massacre, as they described it, they had lost \$62 billion in the market value of their assets overnight. They did admit that some of the \$62 billion that they lost was due to other causes, but at least \$25 billion was due to the specific government measure that was taken.

Prior to the witnesses appearing before our committee, I asked if they had any kind of proof that these were creating a major fiscal situation for the federal government. It seemed they asked the same question in the House of Commons. Honourable senators, under the Access to Information Act, this is the document that they received. There is a lot of information that is blacked out here. They have blank pages to justify the decision of the Minister of Finance.

The third issue that struck me was when Canada's Association for the 50 Plus, CARP, told us that they were looking at bringing a class action suit against the Government of Canada. What else can you expect when you have a Prime Minister of Canada who goes onto the steps of Parliament and cries out an open invitation, "Sue me. Sue me. Come on, sue me."

**Senator Carstairs:** Make my day.

**Senator Ringuette:** We have a provincial government, Saskatchewan, that is looking at suing the federal government. We have a group of citizens from Quebec and I think Northern Ontario who is suing the government in regard to BST. We now have another group of people that is looking at suing the government.

Honourable colleagues, even though we were not given the time to have the constitutional experts appear before our committee to ask about the ramifications of this bill in regard to sections 36(1) and (2) of the of the Constitution, I am sure they would have told us that these two new measures were unconstitutional.

Do not worry. As my colleague Senator Murray has very eloquently said, these two new measures will blow up in their faces.

**Senator Oliver:** Not a chance.

**An Hon. Senator:** It has already blown up.

**Senator Ringuette:** For the sake of upholding the Constitution of Canada and for the sake of upholding the 30-year deal that has been made with the Constitution and its repatriation to all provinces and to all our Canadian citizens, I hope that honourable senators will support the amendments of Senator Moore and Senator Baker. Honourable senators, please consider every citizen that you meet. The seniors and the young people are the ones who will be most affected by these measures.

**Hon. Marilyn Trenholme Counsell:** It is not easy to follow Senator Ringuette, Senator Baker or Senator Mercer, but I want to speak about children. Honourable senators will not be surprised at that. I will then briefly echo what many of my fellow senators have said about Atlantic Canada. This is, disappointingly, in the budget, so I am speaking directly to Bill C-52. It is on page 125, clause 129, under the heading of Child Care Spaces.

I want to return to the business of broken promises and broken deals and not keeping one's word. Senator Baker said that one can tell a fib easily during an election and get away with it. That is exactly what our Prime Minister did.

I mentioned this the other day, but I must read it again because it is so appropriate for tonight. On April 30, 2005, in Calgary, Stephen Harper, then only the leader of the Conservative Party and certainly not a Progressive Conservative, said something after Rona Ambrose had said that on top of honouring any federal provincial agreements, they would do more, and they would enhance the programs for children. These are the words of Stephen Harper on that day in 2005. He said he would honour any deal made by the Liberals if his party wins the next election. "We have said all along that any signed agreement, contractual

obligation of the Government of Canada, will be honoured. We do not want to get into a situation where, like the previous government, we start getting saddled with legal costs and spending our time tearing up agreements."

As Senator Ringuette has just said, he now stands on the front steps and says to the press, "Sue me. Sue me." It was only two years ago that he said, "We do not want to get saddled with legal costs and spending our time tearing up agreements."

We have the same story with the child care agreements as we have with the Atlantic accord and with Saskatchewan. I know it is not exactly the same because we do not have those same legal words in those agreements. Honourable senators on this side will say they were agreements in principle, but they were agreements. The now Prime Minister of this country said before he became Prime Minister that these agreements would be honoured.

I have to think of my neighbour, a fine gentleman, a man I have known for decades, someone who is so highly respected by his constituency that he is elected time and time again, and no one expects to defeat him. Mr. Bill Casey lives just a few kilometres from me. He is a Progressive Conservative, and, like so many people, he is disillusioned. He said on June 3, "In some ways, it was very difficult. In other ways, I just don't think I have a choice." That is the way many of us are feeling tonight. In some ways I just do not think I have a choice. Time will tell tomorrow what that choice means for us.

• (1840)

There is a wonderful headline about Mr. Casey: "Beleaguered Casey stands tall." He said he attempted privately to convince Harper to live up to the accord. He came to the conclusion that it was a futile effort and made his fateful decision to challenge his government. He says the government's signature on any document should be golden, but we know that it is not.

Honourable senators, I want to move on to the child care agreements, because I do not think it would be right to finish the debate on Bill C-52 without remembering these agreements. Others have mentioned them in passing, but I feel it is my responsibility to put on the record, in the debate on this bill here in the Senate of Canada, the financial reality behind the federal child care spaces initiative outlined in clause 129 in Bill C-52.

That initiative has been called a mismatch of mythic proportions by the Child Care Advocacy Association of Canada. I know the word "advocacy" is not allowed in our new government. It is not respected, it is not used; it is scorned. Let us remember that as a society Canada invests less in child care services than most other developed countries. That is why our patchwork of programs ranks low in international comparisons — 14 out of 17 countries, honourable senators.

These agreements in principle, made in 2005, substantially increased the budget commitments of this country to try to move our position up in the world. They were a series of bilateral transfer agreements between the federal and provincial governments. Under these bilateral agreements, provinces agreed to develop and implement plans to advance quality, universally inclusive, accessible and developmental child care services in their communities, and we know that the current federal government announced the termination of these bilateral agreements on March 31, 2007.



What do we have instead? In this bill, Bill C-52, on child care spaces, on page 125, we have this — on the day after cancelling these wonderful agreements that had been developed in 2004, 2005 across this great land:

... on April 1, 2007, make direct payments, in an aggregate amount not exceeding two hundred and fifty million dollars to the provinces and territories for the purpose of supporting the creation of child care spaces.

This is to be on a per capita basis.

The \$250-million annual budget replaces previously committed and dedicated federal funds for child care services of \$1.2 billion. Now there is \$250 million in place of \$1.2 billion, for a net loss annually over the next five years of \$950 million. The current federal government is taking away 62 per cent of the funds that are flowing to communities now, and 79 per cent of what was committed for communities in 2007.

There is absolutely no commitment in clause 129 or in all of the documentation of their program for quality, healthy child development, for community-owned and accessible child care spaces, for emphasis on community needs and plans, or for any sustained, adequate operating funds.

Honourable senators, I want to make sure what each province is losing through these changes gets on the record. Newfoundland and Labrador will lose \$14 million annually; P.E.I. will lose \$4 million annually; Nova Scotia will lose \$26 million annually; New Brunswick will lose \$20 million annually; Quebec will lose \$212 million annually; Ontario will lose \$352 million annually; Manitoba will lose \$33 million annually; Saskatchewan will lose \$27 million annually; Alberta will lose \$92 million annually; British Columbia will lose \$119 million annually; Nunavut will lose \$0.9 million; Northwest Territories will lose \$1.2 million; and the Yukon will lose \$1 million annually — for a total loss annually of \$950 million.

Honourable senators, that is serious. It perhaps does not have the seriousness and the significance for many when compared to the Atlantic accords and the agreement with Saskatchewan, but for me it is a serious and very sad thing.

The Child Care Coalition of Canada concluded that the words and funding cuts of Budget 2007 will not build and sustain child care spaces. A credible approach to expanding child care services in communities across the country requires adequate resources, public standards, and provincial and territorial plans. Thus far the current federal government spaces initiative lacks all of these. The words and the numbers simply do not match up.

Therefore, honourable senators, it is very important that, when we come to our vote on this bill, we remember not only the Atlantic accords, with at least two of the Atlantic provinces, and the agreement with Saskatchewan have been broken, but so have the child care agreements, in principle, with every province in this country. I ask honourable senators to remember that, I ask you to talk about it, I ask you to carry this message until we have a government that is willing to do more and to do the right thing for our children.

Now I want to speak a bit about Atlantic Canada. I will quote Professor Donald Savoie, who is one of the most esteemed scholars and experts in this country on government and economic

affairs. He is the Clément-Cormier Chair in Economic Development at the University of Moncton. This is what he said after he learned about Bill Casey leaving his beloved Progressive Conservative Party, after so many years of serving the people of Cumberland under that banner. He said:

You can sense a growing anger that this is not a fair deal, a deal that has been totally unfair to this region . . . Atlantic Canadians are giving up on federal government.

Professor Savoie went on to say that he and most Maritimers doubt Prime Minister Stephen Harper would urge Ontario or Quebec to “sue me” if the Atlantic accord was called the Ontario accord or the Quebec accord.

It speaks to the sense of history and it speaks to being shortchanged by national policies. I think it's hit that kind of chord. I think it is getting Maritimers terribly upset (and saying), “Hey we're getting screwed once again.”

Those are his words, not mine — but I did not mind reading them.

He continued:

The federal government has failed to come to the region and explain to Atlantic Canadians why equalization programs were rejigged to generate over a billion dollars for Quebec and another \$21 million for New Brunswick and \$91 million for Nova Scotia . . .

I'm not sure we're in dire need of more taxpayers' money flowing our way. But I think, however, it does speak to the sense of unfairness that this region, throughout history, has been treated by the federal government.

Senator Moore in his speech on May 8, 2007 here in the Senate said — and I quote:

The big winners are Ontario, which gains \$197 million, and Alberta, which will receive \$125 million more.

How does that make us feel in Atlantic Canada, my fellow senators?

The Atlantic Provinces Economic Council, as has been mentioned several times today, notes that, in aggregate, the Province of New Brunswick will receive \$1.1 billion less under the new equalization program than under the fiscal framework under which it was previously operating.

I want to say to all my fellow senators that we New Brunswickers are a proud people and we take our motto “hope restored” very seriously. We have a new government, a young government, if you will, when you think of our premier, our finance minister, and they have decided to take a gentle, quiet approach in the hope this federal government will help them in their dream of establishing self-sufficiency for our province.

• (1850)

I hope that is true. They are pushing for a new and full partnership with the Government of Canada.

That is our hope, as New Brunswickers, that this is only the beginning of a dialogue that will see our fate with the federal government reversed. We will never give up hope in New Brunswick.

I say the same thing about the child care agreements. We will never cease to give up hope for all our families and all Canada's children. We believe and we know that we can raise our ratings within the Organisation for Economic Co-operation and Development, OECD. Honourable senators, we will never do it with the Conservative dollars for spaces. It will never happen. It will not succeed. That is why I want to thank all those across this great land who believe in early childhood development and who are prepared to fight for it, regardless of the broken promises by Prime Minister Stephen Harper and his government.

I also want to thank my fellow senators once again for the opportunity to study child care and early childhood development in the Standing Senate Committee on Social Affairs, Science and Technology.

Bill C-52 does not merit the support of Atlantic Canadians, Western Canadians or Aboriginal Canadians; perhaps not even those from Ontario. Bill C-52 does not merit the support of parents and scholars who seek a much better level of care for early childhood education for all Canada's children. Canada's children deserve far more than what is in Bill C-52.

I ask my fellow senators to think hard before you vote for Bill C-52. Thank you.

**Hon. James S. Cowan:** Honourable senators, I take no particular pleasure in rising to participate in this debate at third reading.

**Senator St. Germain:** Jim, do not do it, then.

**Senator Di Nino:** You do not have to do it.

**Senator Cowan:** With the encouragement of Senator St. Germain I have been persuaded to participate. I would much prefer that my intervention be on one side or the other of a debate on some issue of public policy where fair-minded and well-informed senators could express honestly held but different points of view.

That is not the case today.

Today we are talking about integrity, honesty, and trustworthiness, about whether the word of the Government of Canada, or the Prime Minister of Canada, counts for anything. This government, Canada's self-styled "New Government," has deliberately and vindictively torn up written agreements with the governments of two provinces in this country.

These agreements were signed by senior ministers of the governments of Newfoundland and Labrador and of Nova Scotia, in the presence of the Prime Minister and the premiers of those provinces.

Honourable senators, we are not talking about breaking a political promise, some ill-considered rhetorical flourish made in the heat and at the height of an election campaign. We are talking about agreements made pursuant to the provisions of the

Constitution of this country. These agreements were negotiated carefully over a long period of time between the governments of Nova Scotia and Newfoundland and Labrador and the Government of Canada; negotiations in which every word was inserted deliberately and for a clear purpose and with a clear meaning.

My colleagues, Senator Rompkey and Senator Baker, have clearly set out the background and nature of the Atlantic accord. The original accord was concluded by the government of Prime Minister Mulroney in the 1980s, and was enshrined in legislation which, as Senator Baker has shown us, expressly provided it could be changed only with the consent of both partners; the provincial and the federal governments.

The subsequent agreements concluded by the government of Prime Minister Martin, with the governments of Nova Scotia and Newfoundland and Labrador, were signed in February of 2005, as I say, in the presence of senior ministers of those governments and in the presence of the Prime Minister and the premiers of the participating provinces.

Honourable senators, as has been stated a number of times tonight, these agreements are not equalization agreements made pursuant to section 36(2) of the Constitution Act, 1982. They are economic development agreements made pursuant to section 36(1).

Until the introduction of this budget, no one ever disputed this distinction. Indeed, as has been quoted several times, and I will not repeat it again, the website of the Department of Finance, until the day before yesterday at least, made it clear that payments under the accord are separate from the equalization program.

Section 36(1) of the Constitution Act provides the framework for economic development agreements for the purpose of "promoting equal opportunities for Canadians and furthering economic development to reduce disparity in opportunities."

Section 36(2) of that same act enshrines "the principle of making equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation."

These two principles are entirely separate and distinct.

The economic development principle set out in section 36(1) imposes a constitutional obligation to further economic development to reduce disparity in the regions. This is the basis upon which federal-provincial agreements have been made over the years, for example, to support the auto industry in Ontario and the aerospace industry in Quebec.

The concept of equalization, as I say, is entirely separate and distinct and is one of the most admirable attributes of our federation. It is the basis upon which all members of the Canadian family agree that they will help one another for the common good of all. Equalization payments are not made by the richest provinces to the poorest provinces. They are made by the Government of Canada from revenues collected by that government from all Canadian taxpayers.



By its very nature, the equalization formula changes from time to time and the amounts paid to receiving provinces vary according to their fiscal capacity, as calculated in accordance with the formula in place from time to time.

The purpose of the Atlantic accords in 1985 and in 1995 was to ensure that the provinces of Nova Scotia and Newfoundland and Labrador would "receive 100 per cent of the offshore resource revenues as if these resources were on land", and required the Government of Canada "to provide additional offset payments to the province in respect of offshore-related equalization reductions, effectively allowing it to retain 100 per cent of its offshore resource revenues."

Honourable senators, these arrangements were not entered into to enable the provinces to have their cake and eat it too. They were about enabling two small provinces to seize the one opportunity available to them to develop their economies to the point where they would no longer be recipients of equalization payments and to arrive at the point where we would be proud contributors to the future prosperity of this great country.

Section 36 (2) of the Constitution Act contemplates a single equalization program, not one for Nova Scotia and Newfoundland and Labrador and one for the rest of the country. That is the effect of the provisions of this bill; to force our two provinces to choose between the program that was in place at the time the accords were signed in February of 2005, and the current iteration of the formula available to the rest of the country.

That choice, that option, is clearly contrary to the spirit and to the letter of the accords, and of the legislation enacted by this Parliament to implement the arrangements contained in the accords. The accords and the implementing legislation make it crystal clear that Nova Scotia and Newfoundland and Labrador are entitled to participate, like every other province, in whatever equalization arrangements are in place from time to time, and in addition, to receive the economic development transfers, or offset payments, provided for in the accords.

Last week I asked the Leader of the Government in the Senate to request the Prime Minister or the Minister of Finance to provide a legal opinion confirming and supporting their interpretation of the accords and of the legislation that the provinces were forced to choose between the formula as it existed at the time the accords were signed, and the formula put in place subsequently.

In the alternative, I invited her to provide me with the name of a witness that could be called before the National Finance Committee to speak to that point. Neither the opinion nor the witness has been forthcoming.

**Senator Oliver:** The Minister of Finance.

**Senator Cowan:** He did not even think it was an economic development agreement; he thought it was equalization. He is hardly qualified. He did not express an opinion on that point, Senator Oliver.

There is one final point upon which I wish to comment, and that is the specific inclusion of offset payments under the Atlantic accord in calculating the fiscal capacity of Nova Scotia and Newfoundland and Labrador.

• (1900)

The uncontradicted evidence received by the National Finance Committee was that the inclusion of economic development payments in the calculation of a province's fiscal capacity is unique and unprecedented.

Payments received by the Province of Ontario with respect to the Auto Pact or the Province of Quebec with respect to the aerospace industry, or under a multitude of federal-provincial economic development agreements, have never been included in the calculation of the fiscal capacity of the recipient provinces. Why has this government singled out Nova Scotia and Newfoundland and Labrador for this vindictive, discriminatory and confiscatory treatment?

Honourable senators, this is not just a squabble between the Government of Canada and two small provinces on our East Coast. This is about whether we will stand idly by and allow the Government of Canada to unilaterally abrogate written agreements with the provinces.

This is not just about the Atlantic accord. It is about child care and early learning, as Senator Trenholme Counsell spoke about. It is about Kyoto and Kelowna. Where will it stop? Have we reached the point where the word of Canada means nothing within our borders and around the world?

Honourable senators, today it is about Nova Scotia and Newfoundland and Labrador. Tomorrow it could be about Ontario, British Columbia or Quebec.

I appeal to honourable senators on all sides of the house to think very seriously about this. I particularly appeal to my Conservative friends and colleagues from Atlantic Canada, such as Senator Comeau, Senator Oliver and Senator Cochrane. Will you stand up with us in support of our provinces, or will you put your party before your principles?

**Some Hon. Senators:** Hear, hear!

**Senator Cowan:** I have no doubt, honourable senators, that this budget will pass, but I am equally sure that the vote tomorrow will not be the final judgment on the actions of this government.

Stephen Harper referred disparagingly some time ago to Atlantic Canadians as being consumed by a "culture of defeat." I suggest that the real culture of defeat will be found in Conservative Party headquarters throughout Atlantic Canada and hopefully throughout the rest of the country next election night.

**Hon. Consiglio Di Nino:** Honourable senators, this budget implementation bill is important to Canada and to Canadians. Therefore, it is crucial that all honourable senators fully understand what is at stake.

We are all aware of the significant tax measures included in Bill C-52. We are aware of the enhanced funding for the environment, for education and for health care. We are all familiar with the positive benefits of this budget and the additional money it brings to all regions of Canada.

Those honourable senators who were fortunate enough to have participated in the consideration of Bill C-52 at the Standing Senate Committee on National Finance, will also know that this bill is about building a stronger Canada, a Canada that is ready to take on the world and realize its full potential. To get there, though, we need to work together to build a strong federation, and that starts with restoring fiscal balance.

In spite of recent commentary, perhaps the major long-term achievement of Budget 2007 is the restoration of fiscal balance. After all, as I said, fiscal balance is all about collaboration to make life better for Canadians. That starts with providing the provincial and territorial governments with adequate funding. In other words, restoring fiscal balance is about working side-by-side with our provincial and territorial partners in a new spirit of open federalism and building a better future for our country. That is precisely what the measures proposed in Bill C-52 will do.

Before continuing, I will address certain representations made against this proposed legislation with respect to the unique offshore accord arrangements that apply only to the Provinces of Newfoundland and Labrador and Nova Scotia. The contention has been made that under the proposed legislation, these two provinces will be disadvantaged under the new equalization formula when compared to the previously existing system.

At this time, I would like to clarify that Budget 2007 allows both provinces to continue to operate under the previous equalization system for the duration of their special offshore accord arrangements.

There has been some suggestion that the government is unilaterally changing the accord agreements to somehow disadvantage Nova Scotia and Newfoundland and Labrador. Honourable senators, this is incorrect. As my honourable colleagues have mentioned, the consequential amendments found in clauses 80, 81, 83, 84 and 85 only come into effect should the provinces opt into the new formula. This is clearly stated in clause 86, outlining the coming-into-force provisions.

Clause 82 is an amendment in the accord that the provinces were asking for to allow the minister to make offset payments in a more timely fashion, a measure these provinces had been asking for.

Additionally, as before, both provinces will continue to be eligible for the eight-year extension to 2020 under the conditions set out in the accord. They will continue to be eligible for equalization payments calculated on the basis of the formula in place when the accord was signed. As before Budget 2007, both Nova Scotia and Newfoundland and Labrador will continue to be eligible for the corresponding offset payments under the accord until their expiration.

To summarize, honourable senators, as long as Nova Scotia and Newfoundland and Labrador operate within the previous equalization formula, there will be no material changes to the accord or to the equalization calculations on which it is based. Moreover, there is no cap in the formula.

On April 5, 2007, an editorial in *The Globe and Mail* stated forcefully, referencing Newfoundland and Labrador's particular situation:

... the budget's conditions do not apply to Newfoundland.

Not one. There is no cap on Newfoundland. Resource revenues are not included when the province's share of equalization is calculated.

In brackets, "The offshore accord",

... explicitly exempted the province's resource revenues from any calculation of its equalization entitlements.

That accord trumps the budget's measures. And the Conservatives went out of their way to underline that stipulation in the budget.

Nevertheless, both provinces have the option to permanently opt into the new equalization formula at any time if this provides higher benefits to the province than the existing formula. This option gives the flexibility to make a positive choice for their future. That choice reflects one of the guiding principles of this government: Fairness. Whether it is in our relations with individual taxpayers or our provincial and territorial partners in Confederation, fairness remains our guiding principle. In the name of fairness, we committed to restoring fiscal balance to the federation, something the previous government did not even acknowledge.

Honourable senators, I am proud to say that in the budget this government and its Minister of Finance made good on their commitment. Our \$39 billion comprehensive plan introduced to restore fiscal balance will ensure that governments in Canada have the resources they need to deliver the services that Canadians have come to expect. That is what our plan to restore fiscal balance is all about: Building a better, stronger and safer Canada for tomorrow.

As part of our fiscal balance plan, we are returning the equalization program to a principles-based, formula-driven footing as proposed by an independent panel established under the previous government.

The then Minister of Finance, the current member from Wascana, was a strong proponent of having such an independent body that came to be known as the O'Brien panel, which examined this contentious issue, remarking at the time:

There are so many arguments among the provinces about what is the right formula and what it should be, but we will engage an independent panel of experts, people who do not have a particular bias, do not have any kind of regional vested interest, and have them come up with recommendations for how the distribution formula ought to be changed.

• (1910)

That is from the member from Wascana.

However, we were not interested in an approach that only led to fiscal imbalance being endlessly debated again and never addressed. We were interested in action. Consequently, we promptly reviewed the O'Brien panel's findings and then consulted extensively with Canadians, along with provincial and territorial governments, before taking action. Based on those



consultations, we concluded that the recommendations in the O'Brien report formed a solid foundation for the renewal of the equalization program.

The core recommendations in the report are therefore included in our fiscal-balance plan and are the foundation of the new equalization system, one that is fair to all provinces and sustainable in the future.

Indeed, Al O'Brien, the head of the independent expert federal panel, remarked: "Budget 2007 adopted the panel's recommendation as the core framework. I am really quite encouraged."

These recommendations include a 10-province standard based on the capacity of all provinces; the exclusion of 50 per cent natural resource revenue to provide improved benefits to provinces for their resources; a fiscal capacity cap to ensure the program is fair for all Canadians; substantial simplification of the program to make it easier to understand; and increased stability and predictability to assist provinces with their fiscal planning.

Honourable senators, equalization must be fair to all Canadians, including those in provinces that do not receive equalization. As honourable senators know, equalization measures the ability of provinces to raise revenues and bring this capacity up to a national average. With the exclusion of a portion of natural resource revenues in the program, we could find ourselves in a position where a province could receive equalization payments even though its total fiscal capacity is higher than a province that does not receive equalization. That would not be fair.

In the words of a former minister of intergovernmental affairs: "It would be unfair for taxpayers in other provinces to provide an even more generous treatment to offshore revenues in calculating equalization. It would be especially hard to justify such a move to residents of other equalization-receiving provinces that do not have oil or natural gas. Canadians in British Columbia or Ontario, whose governments do not receive equalization, might well ask if Nova Scotia and Newfoundland and Labrador should receive equalization payments that give them fiscal capacities surpassing those of Victoria or Queen's Park."

Just for the information of honourable senators, the aforementioned minister I have just quoted is now currently the Leader of the Official Opposition. His own words explain why the recommended fiscal capacity cap in the O'Brien report will ensure fairness in the system.

Honourable senators, our fiscal-balance plan is based on principles, and we intend to stand by them. The principles are predictable long-term financial arrangements, a competitive and efficient economic union, and effective collaborative management of the federation.

In Budget 2007, we put those principles into action delivering an historic plan worth over \$39 billion to bring funding to provinces and territories to unprecedented levels. There is no doubt that renewing and strengthening equalization is an important step forward, but there is a lot more to our fiscal-balance plan. We are restoring fairness to all fiscal arrangements.

For example, to reflect the unique circumstances and hard costs in the North, we are also renewing and strengthening the territorial formula financing program by \$115 million this year. This will help ensure that the territories have the resources they need to deliver services comparable to those that Canadians enjoy in the rest of Canada.

I note that this revised territorial formula of financing has received widespread and unanimous praise from political leaders in the North. Indeed, Premier Fentie of the Yukon acknowledged that this new funding will help promote long-term and sustained fiscal stability in the North, commenting — and I quote: "I cannot overstate how important this new territorial funding formula arrangement is for the Yukon. It is perhaps the most important achievement of our government to date."

Our plan also proposes to put allocations for both the Canada Social Transfer and the Canada Health Transfer on an equal per capita basis.

Let us take a closer look at what the federal government provides to the provinces and territories.

First, health care. We believe it is time to modernize our health care system. My honourable colleagues spoke about the proposal in Bill C-52 that will improve on our health care system. Canada's new government will be transferring more than \$44 billion in health care funding to the provinces and territories over the next two years via the Canada Health Transfer. Let us not forget there is a built-in annual 6 per cent escalator for that transfer.

To provide greater fairness in our fiscal arrangement, the budget also legislates an equal per capita cash allocation for the Canada Health Transfer to take effect with the current agreement, signed by all first ministers, expires in 2013. Budget 2007 also puts the Canada Social Transfer on a long-term predictable path by extending it to 2013-14.

This, honourable senators, mirrors the Canada Health Transfer's current long-term legislative track as well as the one proposed for equalization and territorial formula financing.

To ensure a predictable and sustainable increase in line with population and inflation projections, the Canada Social Transfer will also grow at an annual 3 per cent escalator, starting with 2009-10. We also propose to put cash allocations to the Canada Social Transfer on an equal per capita basis to ensure that no province or territory is unduly affected by this change.

To enhance transparency, the government will identify federal transfer support for post-secondary education, social assistance, social services and child care.

For example, in addition to strengthening and clarifying our contribution to the Canada Social Transfer, we are investing an additional \$800 million in post-secondary education through the transfer. Additionally, we are providing funding of \$250 million in 2007-08 to assist provinces and territories in their ongoing efforts to provide quality child care services to Canadians.

Budget 2007 also announces the extension of existing funding of \$850 million earmarked within the Canada Social Transfer to support federal-provincial-territorial agreements established in 2000 and 2003 for early childhood development and early learning and child care for 2013-14.

**The Hon. the Speaker:** I regret to advise that the honourable senator's 15 minutes has expired.

**Senator Di Nino:** Five minutes would be great.

What is more, to help ensure a well-educated, highly skilled and mobile workforce in Canada, Budget 2007 proposes a new long-term approach to labour-market training. This initiative will help meet the needs of employers and employees alike through a \$500 million annual investment, beginning 2008-09, to help people get the training they need.

Over the years, we have also heard about the need for a modern and safe public infrastructure that allows goods and people to move freely and efficiently. In keeping with the government's commitment regarding infrastructure and fiscal balance, Budget 2007 will extend, by four years, to 2013, the Gas Tax Fund for municipalities. This is an additional \$11.8 billion.

In fact, Budget 2007 provides \$16 billion in new infrastructure funding over the next seven years. Combined with Budget 2006, this will make a total of \$33 billion — the largest such investment in Canadian history.

The funding in Budget 2007 for the environment is next. All of this increased transfer support, whether for health, education, social services, child care, infrastructure or the environment is crucial to supporting the efforts of provinces and territories in delivering results for Canadians.

A respected commentator, John Ibbitson, wrote in *The Globe and Mail*: "Budget 2007 should remove the fiscal imbalance as a primary irritant in federal-provincial relations for some time" — that is a good day's work — "and deserves greater recognition this Finance Minister has thus received."

Listen to the words of Queen's University professor, Thomas Courchene, in the April 2007 edition of *Policy Options*, who rendered a thumbs up to Budget 2007's major accomplishment to remove — and I quote:

... the fiscal basis of our federation from its earlier state of disarray and to strive to reposition Canadian fiscal federalism within a framework of principles — fiscal, institutional and political.

• (1920)

Honourable senators, I am proud to be standing here today and speaking to you about this bill. I think it is good for Canada; I think it is good for Canadians. I urge you to support it.

**Some Hon. Senators:** Hear, hear!

**Hon. W. David Angus:** Honourable senators, I would like to add a couple of words with respect to the amendment that has been put forward by our colleague Senator Baker.

I have been somewhat bemused sitting at the hearings this week, and again last night listening to the two professors, Locke and Hobson —

**Hon. Sharon Carstairs:** Honourable senators, on a point of order. It is my understanding that Senator Angus has already spoken and now he is attempting to speak on amendments. You cannot bundle things together and say, "We will do it all together," and then single out and speak separately. It is one or the other, honourable senators.

**Some Hon. Senators:** Hear, hear.

**The Hon. the Speaker:** On the point of order, I take it the house agrees with the view of Senator Carstairs.

**Hon. Senators:** Yes.

**Senator Ringuette:** Absolutely.

**Hon. Terry Stratton:** I thought I would explain from this side why the government is not prepared to make amendments to the bill. No amendments are necessary as Budget 2007 already respects the Atlantic accords, just as they were on March 18, the day before the budget.

**Some Hon. Senators:** Oh, oh.

**Senator Stratton:** Newfoundland and Labrador and Nova Scotia can stay in the status quo formula until the accords expire, and receive every penny that they were entitled to under the existing accords.

Budget 2007 also gives the accord provinces a positive choice for the future to opt into the new equalization formula, if they determine that it is in their interest to do so. In fact, for 2007-08, Nova Scotia has opted into the new formula, giving it an additional \$95 million in equalization.

Changing the legislation to effectively remove the O'Brien cap under the new formula, as proposed at the Senate committee hearings, would be fundamentally unfair to the other provinces, including those that do not receive equalization, and the changes would be costly and complex.

The government has taken the decision to introduce a comprehensive, principle-based set of reforms for a national equalization program that is equitable to all provinces. Now is not the time to let provinces take the formula apart and choose only those elements that are in their own best interest.

I believe we got that message across during the committee hearings and again today: You cannot cherry-pick.

In order to preserve fairness in the formula, integrity has to be maintained. The Atlantic accords, under the fixed framework agreement, have no cap and continue to constitute the "life preserver," so often referred to by the opposition parties during this debate.

Nova Scotia and Newfoundland and Labrador have the accord arrangement under the fiscal framework from 2004-05 that was available to them on March 18. That was confirmed by Professors Locke and Hobson yesterday evening. Every province would like



the opportunity to design the equalization program in a way that enhances their fiscal situation, but the federal government has the obligation to design a fair program that respects the intent of the equalization.

The opposition has been very selective when arguing that the accords were strictly economic development agreements. What they were asking for dramatically impacts on the equalization programs that affect all provinces.

They also frame this argument around the fact that billions of dollars are being lost. That is not actually the case. These are hypothetical losses based on designing the new equalization program to suit the accord provinces. They will not lose one penny of what was promised to them should they choose to stay in the fixed framework program in effect at the time they signed the agreements in February 2005. Not one penny is lost. They are claiming losses under a program that never existed. The great deal they signed in February 2005 is still available to them, should they wish to keep it.

**Senator Cowan:** Would Senator Stratton entertain a question?

**Senator Stratton:** No. It is late and I am tired.

**Some Hon. Senators:** Shame.

**Senator Cowan:** It is a very simple question.

Your Honour, perhaps I could —

**Senator Stratton:** To quote the honourable senator from across the way who earlier said, "It is late."

**Senator Cowan:** Perhaps I could put the question on the record and then the honourable senator could decide whether it is possible for him to answer it.

Perhaps he could extend an invitation to the Prime Minister and the Minister of Finance to come to Nova Scotia and Newfoundland and Labrador and make that case at a public meeting.

**Some Hon. Senators:** Hear, hear!

**Senator Stratton:** Point of order, Your Honour. I said I would not take questions. That was a second speech.

**Some Hon. Senators:** Oh, oh!

**The Hon. the Speaker:** Honourable senators, questions and comments are quite in order after a speech. No senator is obligated to answer a question.

Senator Rompkey, do you have question?

**Hon. Bill Rompkey:** I am not able to ask Senator Stratton a question, but had I been, in this democratic forum where speech is open and where "parliamentarian," as a matter of fact, means speaking.

**Senator Comeau:** On a point of order. I think Your Honour ruled on the same point that when someone has spoken once, he or she could not speak a second time.

**The Hon. the Speaker:** It is quite in order for a senator to make a comment during the period of questions and comments. Equally, under that same rule, the senator who has spoken, concerning whose speech another honourable senator wishes to make a comment or ask a question, in asking the question of the senator who has first spoken does not wish to answer that question, they are not obligated to answer the question. However, a comment is in order.

**Senator Comeau:** Therefore, based on that ruling you just made, Your Honour, would Senator Angus not be allowed to make a comment in a question to Senator Stratton?

**Some Hon. Senators:** Hear, hear!

**Senator Day:** Too late.

**Senator Carstairs:** On the same point of order, Your Honour —

**The Hon. the Speaker:** Honourable senators, it is perfectly clear. What I said at the beginning is that we are now at the stage of questions and comments. Comments are in order, and I am recognizing Senator Rompkey to comment on the speech that we just heard from Senator Stratton.

**Senator Rompkey:** As I say, had I been able to ask a question, I would have asked Senator Stratton if it was his position that there will be two equalization formulas applying in Canada for the next 20 years and that everyone will accept that there are two different and distinct equalization formulas operating in Canada for the next 20 years. Would all premiers in Canada accept the fact that there will be two equalization formulas operating in Canada for the next 20 years? Would the people of the provinces that those premiers represent be able to accept the fact that there are two equalization formulas, or is it not the fact that the government wants to funnel us all into the new equalization formula?

**The Hon. the Speaker:** Senator Angus, do you have a comment?

**Senator Angus:** I have a question for Senator Stratton.

**Senator Rompkey:** You cannot ask a question.

**Senator Di Nino:** He does not have to answer. He can ask the question. He does not have to answer.

**Senator Cools:** He said he was too tired to answer.

**Senator Munson:** He is tired.

• (1930)

**Senator Angus:** I have a comment; this is crazy stuff.

I infer from what Senator Stratton has said, and I want him to comment on this, if he would. The honourable senator does not want me to do that? Okay, I am commenting.

Much fuss has been made about the effect of the federal government, or the allegation of the federal government and the provincial governments of Newfoundland and Labrador and Nova Scotia agreeing that the accords would not be amended

without mutual consent. I can only infer from that that they have not read Bill C-52, because it is clearly stated in sections 80, 81, 83, 84 and 85, on pages 93 to 95 of the bill, that the provisions that would otherwise amend those Atlantic and offshore accords would only come into effect if the provinces — one or other or both of them — opted to go under the new equalization formula. That opting, if, as and when it would occur, would represent mutual consent.

I can only gather that either my friend Senator Baker or the professors last evening had inadvertently omitted to read the bill.

**Senator Murray:** Honourable senators, I rise on a point of order and possibly we could have some guidance on this. I am backing up a little bit to where we were a few moments ago.

I draw honourable senators' attention to rule 37(4), general time limit on speeches. It says:

Except as provided in sections (2) and (3) . . .

— those sections have to do with the unlimited time for the leaders and the 45 minutes, I think, for sponsors and spokesmen on bills —

. . . no Senator shall speak for more than fifteen minutes, inclusive of any question or comments from other Senators which the Senator may permit in the course of his or her remarks."

I infer from that, Your Honour, that Senator Stratton was within his rights in declining to take a question from Senator Rompkey in the first place; and though we should have been deprived of those interesting exchanges from the other senators, that they were also all out of order once Senator Stratton declined to take the question.

**Senator Rompkey:** Forget I ever said it.

**The Hon. the Speaker:** Are there any other views on that point of order?

**Senator Comeau:** I tend to agree with the honourable senator's observation on the ruling.

**Hon. Anne C. Cools:** I would like to join this debate. Honourable senators, I am under the impression that we are obliging the government a lot tonight in terms of agreeing to stack amendments and to do all sorts of things. I would take the point of view that the leaders of the government have a duty and even a courtesy to assist those of us grappling with these issues and to answer our questions when questions are put, because it allows the debate to move more swiftly and to go ahead a bit more intelligently.

If we were all to adopt the point of view that we are tired and we will say nothing, we could all go home and it would all be over. One has to wonder what the whole purpose of the exercise is. I thought that the objective of this exercise is that the government was trying to get its budget Bill C-52 passed.

**The Hon. the Speaker:** On the point of order raised by Senator Murray, is there any further comment? If there is no further

comment, the house is of the view as expressed by Senator Murray. Therefore, debate continues.

On motion of Senator Comeau, debate adjourned.

## BUSINESS OF THE SENATE

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I ask for leave to stand all remaining items of government business — except for Bill C-51, the Nunavik land claims agreement — after dealing with Bill C-288 so we can hear from Senator Adams on Bill C-51; but that we now proceed to Bill C-288.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** The senator has a question.

**Hon. Bill Rompkey:** I wanted to inform the Deputy Leader of the Government in the Senate that I have a motion that I gave notice of yesterday to extend the mandate of the Standing Senate Committee on Fisheries and Oceans that I would like to move tonight. Otherwise, there will not be an opportunity before next fall.

**Senator Comeau:** Absolutely. Honourable senators, by the motion that I just moved, I did not interfere in any way with other items on the agenda that would come after Bill C-288 and Bill C-51. Those items will still be on the Order Paper. We can deal with them as they arrive, as we can deal with Senator Rompkey's request for leave and other items when we reach that point.

**The Hon. the Speaker:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

## KYOTO PROTOCOL IMPLEMENTATION BILL

### THIRD READING—MOTION IN AMENDMENT— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Trenholme Counsell, for the third reading of Bill C-288, to ensure Canada meets its global climate change obligations under the Kyoto Protocol;

And on the motion in amendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Angus, that Bill C-288 be not now read a third time but that it be amended:

(a) in clause 3, on page 3, by replacing line 19 with the following:

"Canada makes all reasonable efforts to take effective and timely action to meet";



(b) in clause 5,

(i) on page 4,

(A) by replacing line 2 with the following:

“to ensure that Canada makes all reasonable efforts to meet its obligations”,

(B) by replacing line 6 with the following:

“ance standards for vehicle emissions that meet or exceed international best practices for any prescribed class of motor vehicle for any year.”, and

(C) by adding after line 13 the following:

“(iii.2) the recognition of early action to reduce greenhouse gas emissions, and”,

(ii) on page 5,

(A) by replacing line 9 with the following:

“(a) within 10 days after the expiry of each”,

(B) by replacing line 23 with the following:

“first 15 days on which that House is sitting”, and

(C) by replacing lines 26 and 27 with the following:

“each House of Parliament is deemed to be referred to the standing committee of the Senate and the House of Commons that”;

(c) in clause 6, on page 6, by adding after line 29 the following:

“(3) For the purposes of this Act, the Governor-in-Council may make regulations restricting emissions by “large industrial emitters”, persons that the Governor-in-Council considers are particularly responsible for a large portion of Canada’s greenhouse gas emissions, namely,

(a) persons that are part of the electricity generation sector, including persons that use fossil fuels to produce electricity;

(b) persons that are part of the upstream oil and gas sector, including persons that produce and transport fossil fuels but excluding petroleum refiners and distributors of natural gas to end users; and

(c) persons that are part of energy-intensive industries, including persons that use energy derived from fossil fuels, petroleum refiners and distributors of natural gas to end users.”;

(d) in clause 7,

(i) on page 6,

(A) by replacing line 32 with the following:

“that Canada makes all reasonable attempts to meet its obligations under”, and

(B) by replacing line 38 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 7, by replacing line 4 with the following:

“(3) In ensuring that Canada makes all reasonable attempts to meet its”;

(e) in clause 9,

(i) on page 7, by replacing line 33 with the following:

“ensure that Canada makes all reasonable attempts to meet its obligations”, and

(ii) on page 8,

(A) by replacing line 3 with the following:

“Minister considers appropriate within 30 days”, and

(B) by replacing line 7 with the following:

“(1) or on any of the first fifteen days on which”;

(f) in clause 10,

(i) on page 8,

(A) by replacing line 9 with the following:

“10. (1) Within 180 days after the Minister”,

(B) by replacing line 11 with the following:

“tion 5(3), or within 90 days after the Minister”, and

(C) by replacing line 38 with the following:

“(a) within 15 days after receiving the”, and

(ii) on page 9,

(A) by replacing line 6 with the following:

“Houses on any of the first 15 days on”, and

(B) by replacing line 9 with the following

“(b) within 30 days after receiving the advice,”;

(g) in clause 10.1, on page 9,

(i) by replacing line 17 with the following:

“and Sustainable Development may prepare a”,

(ii) by replacing line 32 with the following:

“report to the Speakers of the Senate and the House of Commons”, and

(iii) by replacing lines 34 and 35 with the following:

“Speakers shall table the report in their respective Houses on any of the first 15 days on which that House”.

**Hon. Senators:** Question!

**The Hon. the Speaker:** Honourable senators, shall I dispense?

**Hon. Senators:** Dispense.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** No.

**Some Hon. Senators:** Yes.

**The Hon. the Speaker:** All those in favour of the motion, please say “yea.”

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** All those opposed to the motion, please say “nay.”

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my view, the “nays” have it.

Motion defeated, on division.

• (1940)

Resuming debate.

#### MOTION IN AMENDMENT

**Hon. Lowell Murray:** Honourable senators, as I have telegraphed to the house on numerous occasions, I have an amendment at third reading. Therefore, I move, seconded by Senator Spivak:

That Bill C-288 be not now read a third time but that it be amended, on page 10, by adding after line 33 the following:

#### “COMING INTO FORCE

12. This Act comes into force on a day to be fixed by order of the Governor-in-Council.”.

**The Hon. the Speaker:** Debate?

**Senator Murray:** Honourable senators, I apologize for inflicting a second speech on you today, but I shall try to be brief. The amendment that I propose to this bill will provide that the bill come into force at a time to be decided upon by the Governor-in-Council. That would be the present government or its successor.

I argued at second reading that this bill was incompatible with our Westminster and Canadian tradition of responsible government. Everything I have heard in debate, including committee discussions since that time, has served only to reinforce my view. Bill C-288 is not, as Senator Mitchell would try to persuade us, the result of a great crusade by a lonely but intrepid backbencher who was able, by the force of his conviction and strength of his argument, to persuade other parliamentarians to rally to his cause. We have ample precedent for that kind of private member's bill. One thinks many years ago of the bill brought forward by Mr. Chrétien to change the name of Trans-Canada Airlines to Air Canada.

Kyoto, however, is a fundamental and controversial issue of public policy in this country. It is an international protocol with serious long- and short-term implications for Canada and for the Canadian economy. Its implementation will engage the financial initiative of the Crown and the collective responsibility of the executive government to Parliament and to the electorate.

This bill reverses that dynamic. Its passage would not, as Senator Mitchell again has tried to persuade us, be an exercise in parliamentary supremacy. Parliamentary supremacy derives its meaning and exists in the context of the responsibility of the executive government, the cabinet, to Parliament, in particular to the House of Commons. Far from being an exercise in parliamentary supremacy or parliamentary responsible government, as we understand it, this bill is an unprecedented introduction of United States congressional law-making into our Westminster and Canadian system.

**Some Hon. Senators:** Shame!

**Senator Murray:** It is surprising to hear honourable senators of the Liberal caucus, who are so quick to condemn almost any initiative that has anything of a United States flavour about it or that puts us on the same policy ground as the United States, come forward with a bill that will do more to Americanize our system of parliamentary responsible government than anything I have seen in a long time.

At the Standing Senate Committee on Energy, the Environment and Natural Resources, we heard from, among others, Mr. James Hurley, whom many of us know as a political scientist, a constitutional expert and an adviser to federal governments of various political stripes since the mid-1970s. He told the committee: “What we are seeing with Bill C-288 has never happened before.” We are “muddying the principle and the whole basis of responsible government.” It is “against established convention.” It will “establish a new convention.” It will “alter the dynamics of the way the conventions of our Constitution have operated.”

He came to offer an expert opinion on the constitutionality, in the broadest sense, of this bill. He always ended by saying that it is up to senators to do what they wish to do.

Mr. Hurley said, “It will impinge upon the operation of responsible parliamentary government.” He added, “If you start getting major policy issues decided this way rather than by elections, are you changing the political system?”



Mr. Hurley drew a helpful distinction, at least to our understanding of this bill, between legal responsibility and political responsibility. If Bill C-288 goes through, the government of the day will have legal responsibility for it, but not political responsibility. Yet, our parliamentary and electoral system is based on political responsibility. The distinction is clear and helpful in understanding the precedent that this bill creates.

It may be that a response to this anomaly, if that is what it is, was provided by Professor Lynda Collins, who also appeared before the committee. Professor Collins is an Assistant Professor of Law at the University of Ottawa. She is an environmental advocate and a supporter of this bill. She said:

This bill is one of the most justiciable pieces of environmental legislation in Canada,

She continued:

... in the sense that one of the widely acknowledged defects in Canadian environmental legislation is that it tends to contain a lot of discretion, ... However, this bill is framed in mandatory terms. ...

The plan, for example, includes very specific aspects that must be dealt with, for example, the financial measures, et cetera.

In answer to a question, she said:

... any citizen could judicially review a refusal to comply with the law. ... The court would issue an order, and whoever failed to comply with that order would be in contempt of court. In theory, we could see a minister of the government hauled to jail for failure to comply with a law. However, I find it difficult to conceive that any government would take that course of action.

In brief, again, responsibility for this major issue, this major public issue, will be legal, not political, and the remedy, Professor Collins, reminds us, will be in the courts, not in the parliamentary and political process where it belongs in our system of government.

I acknowledge that the Speaker of the other place ruled that Bill C-288 is not a money bill. The concept was that the spending implied is only indirect and that the bill, in its pith and substance, is not a spending bill.

• (1950)

My argument, I hope it is clear, is much broader than the question of the financial prerogative. It is also true that either the government or the opposition could have, and probably should have, declared this bill a matter of non-confidence in the House of Commons. They did not do so. It is now in our chamber, the chamber of sober second thought, to reflect on how it would change our political system.

Finally, honourable senators, I want to refer to one of our sister Commonwealth nations, New Zealand. New Zealand has a unitary system of government, but it is the Westminster system that we have here. Their electoral system produces frequent

minority governments. It has been suggested that, if we go on producing minority governments through our elections, this kind of measure will become commonplace, with all that portends for our system of responsible parliamentary government.

Let me tell you how the New Zealanders handle it. They have something called the Crown's financial veto. I am quoting from the Standing Orders of their House of Representatives. I will provide a few short quotations. The first is 318(1), "Financial veto:

The House will not pass a bill, amendment or motion that the Government certifies it does not concur in because, in its view, the bill, amendment or motion would have more than a minor impact on the Government's fiscal aggregates if it became law.

A bit later:

A certificate by the Government not concurring in a bill —

— for these reasons —

... must state with some particularity the nature of the impact on the fiscal aggregate or aggregates concerned and the reason why the Government does not concur in the bill, amendment or motion.

A bit later:

The Speaker will not put any question for the third reading of a bill to which such a certificate relates unless the House has first amended the bill to remove any provision that the Government has certified that it does not concur in.

I suggest to honourable senators that if such rules existed in this country and in this Parliament Bill C-288 would not be before us today. We do not have such rules, unfortunately. The only context in which the Speaker of the other place could rule was on the strict question of whether there is a direct expenditure of money, and he ruled as we know.

The matter is now before us. I hope honourable senators will consider seriously the precedent that is being created — and I appeal especially to honourable senators opposite in the Liberal Party, who hope to be back in office one day. I am cautioning them that, if that happens, they will rue the day they ever passed this bill if they come into office in a minority situation.

Honourable senators, my amendment will solve the entire problem. It leaves the bill intact, as it was sent to us from the other place and supported by the Liberal opposition. It preserves the principle of parliamentary responsible government by according to that government the right to decide when to proclaim it.

**Hon. Tommy Banks:** Will the honourable senator accept a question?

**Senator Murray:** Yes.

**Senator Banks:** The New Zealand example he gave sounds suspiciously like a government veto or a presidential veto. The honourable senator might be aware of my general antipathy to

coming-into-force provisions such as those the honourable senator has proposed, except in cases where it is demonstrably necessary, which is usually a condition precedent of some kind, another act coming into force or some event happening.

Is there, in the honourable senator's view, any such event that any government would be looking for in order to bring this bill into force and effect? Bearing that in mind, it is my understanding that, ordinarily, when a coming-into-force clause of that description is put into a bill, it is giving to the government the discretion of when, but not whether, to bring an act of Parliament into force — when, but not whether, being important. In this particular case, that conundrum is exacerbated by the fact that the less time we have between the time the bill comes into force and the objects of the bill, the more difficult the job will become.

**The Hon. the Speaker:** Senator Murray's 15 minutes have expired. Is it agreed to extend his time for five minutes?

**Hon. Senators:** Agreed.

**Senator Murray:** I am not sure I fully understood the last few words spoken by the senator. I think he was getting into the substance of the urgency or otherwise of implementing Kyoto as a matter of public policy. This is not my field of expertise, but I have also heard it argued that recent agreements that the Europeans have made with regard to climate change and so forth to some extent make Kyoto, if not irrelevant, then subject to a changed context in which Kyoto operates. Therefore, this government or another government might decide not to proclaim it or, preferably, to bring in a government bill.

We have precedent for that, by the way. Our own Senator Kinsella some years ago brought in a bill that passed this place having to do with the Human Rights Act and sexual orientation. It passed here, got to the House of Commons, and the government indicated that they would prefer to take it on as a government bill, so Senator Kinsella gave way, not standing on ego or protocol; the government brought in the bill and we passed it as a government bill. That sort of thing could happen here.

As for the New Zealand situation, the honourable senator says that it is suspiciously like a veto. What it is is a rather stronger provision than we have for the Governor General's warrant. In the almost constant minority situation that the government is in and allowing many private member's bills to come forward, there must be a way to protect the financial prerogative of the Crown and the fiscal situation of the government. These provisions are here. The government cannot just, by fiat or by its signature, veto the bill. They have to provide an explanation of how this bill would interfere with their fiscal framework and so forth. It is there precisely to take account of bills, amendments or motions moved by private members. Something like that would have to be considered if we are in a constant minority situation and continue to vote on private member's bills.

I have lost track of the middle question that the honourable senator asked. If he wants to remind me, I will do my best to answer.

**Senator Banks:** Ordinarily, a coming-into-force clause, the one the honourable senator has described, is to give the option to the government to determine when, but not whether, to bring it into effect.

**Senator Murray:** That is correct.

**Hon. George Baker:** Honourable senators, Senator Murray could shed some light on this matter with his amendment if he would say that his motion of amendment would be comparable to a hoist motion or, in its application, would certainly negate the provisions of the act, since the intent of the proposed legislation was to indeed force the government to do something the government did not wish to do. Upon its acceptance in the House of Commons, could not the Senate, if we were to accept the honourable senator's motion, be accused of negating a House of Commons approval or, in another way, hoisting the bill completely from the Order Paper?

• (2000)

**Senator Murray:** No, I do not agree that it is the same as a hoist. A hoist is normally considered to be the end of the bill.

There is ample precedent for changing or adding a coming-into-force provision to a bill. If we add this amendment, the bill will go back to the House of Commons and the House of Commons will decide what they want to do with it. It will be a message from us to them.

The worst that could happen, I suppose, is that the present government remains in office and does not deal with the matter. It might also happen that the present government is replaced by a government of another political stripe that would, presumably, proclaim the bill right away, or the present government might change its mind, or the present government might bring in a bill of its own. I am trying to preserve the Westminster and Canadian system of parliamentary responsible government.

**The Hon. the Speaker:** Senator Murray's time and the extension have expired.

**Hon. Mira Spivak:** Honourable senators, I find myself in a strange position, because I do not dare ever to disagree with Senator Murray, but I will disagree with him to some extent.

**Senator Murray:** I appreciate your courtesy in seconding the motion anyway.

**Senator Spivak:** That does not mean I cannot disagree with you.

**Senator Murray:** No, of course.

**Senator Spivak:** The situation we are in is the fault of the people in the other place. First, why did they not make this a matter of non-confidence? Also, the bill was supported by three parties in the House of Commons, so it is here with good imprimatur.

The questions Senator Murray raised were of great interest to me. They were raised and answered in our committee deliberations of May 8. Because the bill also sets an important precedent, those issues and our witnesses' responses to them should be on the record here.

First was the question of whether Bill C-288 is constitutional, and we heard clearly that it is. Second was whether it sets a precedent in constitutional conventions, and we heard this it does.



Mr. James Hurley, to whom Senator Murray referred, said:

... notwithstanding all of the minority governments we have had since 1957, never before has a matter of such central interest to the political discourse in this country come before Parliament, and been adopted, notwithstanding the opposition of the government. . . . It is not unconstitutional. Rather, it is against established convention of practice. Other minor bills got through, but nothing of this scale.

Mr. Hurley cautioned us on two fronts. He said that there is nothing the government can do to avoid giving Royal Assent after we pass it — if we pass it — without creating a constitutional controversy. In passing it, however, we reverse convention.

Because the Prime Minister and his cabinet must maintain the confidence of the House, the long-standing assumption is that they are responsible for the legislative output of Parliament, and will be held accountable to the electorate for it. In passing Bill C-288, Parliament imposes its will on an unwilling government.

There were two clear answers to that. First, Lynda Collins of the University of Ottawa said that the notion that Parliament should not impose measures on an unwilling government is contrary to our system of government. She said:

Since the Bill of Rights of 1689 —

That is in the British Parliament —

— parliamentary supremacy has been a key principle of the law of democracy both in the U.K. and in Canada.

The Supreme Court of Canada put it in clear language in the reference case regarding judges' remuneration: The court said:

There is a hierarchical relationship between the executive and the legislature whereby the executive must execute and implement the policies which have been enacted by the legislature in statutory form.

As others also pointed out, governments implement laws with which they disagree all the time, particularly laws they opposed while on the opposition benches. They have the choice to repeal those laws, as the current government has the choice to attempt to repeal this law after we pass it, if we pass it.

To focus Mr. Hurley's concern more finely, he foresees a muddying of the political waters when voters next go to the polls. Canadians will be asked to vote for or against a government that is implementing a critical law — a law addressing what many describe as the defining issue of this century, the issue being climate change — and a law for which, in the political sense, they are not responsible.

That, frankly, was the government's choice. It was its political choice not to make a vote on this bill in the other place a matter of confidence. The government chose not to risk going to the electorate on how best to deal with the single most defining issue we face. It is not for the Senate to fix that problem. It is for the government and for elected members in the other place to

determine whether Canadians will have a clear vote on whether Canada will meet its obligations under the Kyoto Protocol.

This has a bit of an anachronistic feel about it, because time is swiftly passing by for the Kyoto Protocol, but here we are, and it is not our fault.

If we pass this bill, the government will still have that choice, although it has muddied the waters further, and perhaps hoisted itself on its own petard, in putting forth one of its democratic reform policies, that of fixed election dates. However illogical, the government still retains the authority to bring forth legislation repealing this bill and making it a matter of confidence.

Mr. Hurley is so concerned that our constitutional conventions are being altered that he urged us to amend the bill with a coming-into-force clause, which you have recently heard about, that would give the government wiggle room.

One of his arguments on that front is that the government could not reasonably present a Kyoto compliance plan within 60 days, as this bill requires. He conceded that he is not an expert on the climate change file. His concern was primarily a managerial issue.

I remind honourable senators that our non-elected officials have been defining options to reduce greenhouse gas emissions and compiling climate change plans for a long time — sadly, without much result.

As the former Commissioner of the Environment set out in her report last year, between 1993 and 2005, the former government spent \$1.6 billion to address climate change — a great deal of it on issue tables, endless consultations and, finally, not one, but three consecutive climate change plans.

As Minister Baird himself acknowledged with the release of his "dark side" prescription of the costs of implementing this bill, in 2000 the government launched Action Plan 2000 on Climate Change. In 2002, after extensive public consultation, it released the Climate Change Plan for Canada, and then, in 2005, it announced Project Green, intended to ensure Canada's compliance with the Kyoto commitments.

God help us.

When we go back to the discussion paper that preceded the 2002 document, we find the options available for compliance are similar to the options the minister analyzed this spring. We even find the models that were used to assess the economic impacts of climate change policy in 2002 — the Energy 2020 model and the Infometrica model — are the same models the minister used this year.

The only significant differences are the options that the current government has swept off the table, and the stunningly high carbon tax it would propose.

• (2010)

In 2002, two tax options were considered: a tax on emitters of \$10 a tonne that would cause government revenue to rise about \$4.5 billion annually, and a tax of \$50 a tonne that would presumably add in the order of \$20 billion annually. In those scenarios, the revenues would be returned into the economy in a number of ways.

Mr. Baird, on the other hand — we are talking about the dark side thing now — proposed a carbon tax of \$195 a tonne and claimed that 30 per cent of the billions that would be collected would be retained by the federal and provincial governments to offset pressures on their fiscal positions arising from the policy shock. Small wonder he predicts that the economy would take a dive and GDP would decline more than 6.5 per cent relative to current projections for 2008.

Meanwhile, the forecast of the GDP impact of a far more reasonable policy, a far lower carbon tax and greater use of the clean development mechanism, results in a forecast of a GDP impact between zero and minus 2 by 2012.

These figures do more than illustrate how wildly tilted is the picture of both sides in regard to the impact of this bill. They speak to the other governance issues that were raised repeatedly in our committee.

Senator Murray raised an issue of the financial initiative of the Crown. Senator Carney described it as bringing on a train wreck with “financial implications that everyone is saying we cannot meet.”

As Professor Collins replied, the federal government is not the major emitter of greenhouse gases. Industries and some provincial governments through their utilities are large-scale emitters. The Government of Canada can comply with the act by simply regulating emitters.

It has several additional options, including setting a reasonable carbon tax — I remind honourable senators that it was Don Drummond of TD who said we must have a carbon tax, and many other economists are talking that way, and withholding a reasonable percentage of that revenue to offset any spending it incurs; it is not just those tree huggers. You know who we mean. We will not mention their names.

Whatever choices are made, as the Speaker in the other place has ruled, this is not a money bill. Mr. Hurley confirmed that by saying that if spending is an indirect cause of legislation, it is not deemed to be a money bill.

Still, we were cautioned to think carefully about the precedent this bill will set, particularly for minority governments that could be with us for a very long time.

Senator Mitchell made the astute observation that the horse left the barn several years ago when predecessors to today's Conservative Party fought successfully for the democratic reform that brings backbenchers' bills to a vote rather than seeing them “talked out,” according to the old convention.

I would add that not only minority governments may have a problem, but also all Conservative governments may encounter it from time to time if they hold to their founding principles of February 2004. In that document, the new Conservative Party vowed to restore democratic accountability in the House of Commons by allowing free votes on all matters except the budget and the Main Estimates, unless a matter of confidence is expressly declared on a motion.

Train wrecks often occur when too many trains run in opposite directions on too narrow a track. The government has several trains running: the train of past democratic reforms, the train that crashed former government programs on climate change, the policy train that gave us new fixed date elections and the ever-changing political train.

Honourable senators, this bill need not presage a fiscal train wreck. Let us remember that it expresses the will of Canadians through their elected representatives in the other place. One only has to see the polls to see that the House of Commons reflected the feeling of Canadians. This bill opposes the will of corporate lobbyists who have persuaded the government that Kyoto compliance would be too onerous. That may be too true.

I am not sure where the truth lies here, but this is what I think: we did not create this problem. We have a serious policy matter before us which, perhaps, has passed us by. Perhaps it is not in the right forum. However, what is our choice? Our choice is to say that we will do nothing or to say we will do something. In my case, I prefer a positive option.

**Hon. Anne C. Cools:** Honourable senators, I would like to join in this debate on Bill C-288 on Kyoto. I would begin by saying that, in a peculiar kind of way, the government has created this bill, in a of way, by its host of attitudes and by its wanton disregard for differing opinions. I would like to begin on that point.

Before I go much farther, I would remind Senator Murray that we had a bill here in 2004, Bill C-250. It was Svend Robinson's bill, a private member's bill, an amendment to the Criminal Code in regard to hate crimes. As Senator Murray will remember, I argued that that bill was proceeding here without the political responsibility of a minister. The bill, as we will recall, was moving ahead under the support of the then government supporters in this place and with the support of the then Minister of Justice, who was Martin Cauchon. It was moving ahead not under ministerial responsibility, because it was not introduced in both chambers by a minister. At the time, I argued that that was not proper and that if a minister or if the government is so supportive of a bill, they have a duty to make it their own and to move it along under ministerial responsibility. Senator Murray will remember that with that particular bill, he moved closure, the previous question or the guillotine motion, one or the other — I have forgotten right now.

Bill C-288 is the opposite of that situation, honourable senators. Bill C-288 is a situation where a bill is moving ahead with the support of a majority of most of the members of the two Houses, and in the face of the government's opposition to it.

Perhaps, honourable senators, I can explain what I mean when I talk about government high-handedness. A government in a minority situation is supposed to conduct itself as if it is in a minority situation. It is supposed to move ahead at all times, seeking accommodation, reconciliation and agreement. Senator Spivak talked about the government being hoisted on its own petard. That is an interesting expression. Maybe I will borrow it. Let us understand what is happening here.

Senator Murray's amendment is a laudable amendment if we were working under more perfect conditions, and if we were working under more polite and genteel conditions. If Senator



Murray were to give me an undertaking or indicate to me that he had had conversations, for example, with the minister, and that the minister would be willing to take this bill as if it were his own and to proclaim it, then I would, perhaps, go along with him and support his amendment. However, based on the harsh, caustic and even abrasive statements that I hear fall from the minister's mouth, I have no doubt that the honourable senator's proposed would just be a simple opportunity for the minister to ignore the bill and to ignore the Senate.

• (2020)

I have no doubt about that. I have a newspaper clipping here — the heading of which is “‘Blow up’ dysfunctional Senate: Tory; Liberal majority has driven chamber to all-time low, government whip says” — an article by Jack Aubry in the *Ottawa Citizen* Friday, May 18, 2007:

“This is an incestuous place which should be blown up,” an exasperated Terry Stratton . . . said . . .

Honourable senators, it was in the newspaper. It can be found in the *Ottawa Citizen* on Friday, May 18, 2007. These are not words that encourage a spirit of love and affection and trust in this government. When I read that statement, I wondered did he mean to blow it up with us senators in it? What bothered me about the statement, honourable senators, is that there is some racism to it. I can assure honourable senators that had a non-White person or a Black person or an Arab person made a statement like that it would have been most unpleasant.

**Some Hon. Senators:** Hear, hear!

**Senator Cools:** I am saying to Senator Murray that we have had bills here that I have seen amended on the strength of commitments that were made by ministers quite often in conversations with certain other senators. However, the ability to get such commitment will depend on the minister's interest in conciliation, and I see none in this government or in the responsible minister.

I have been thinking about Senator Murray's amendment for the last several minutes. I will not support it because I see no indication that the government will do or wants to do what the honourable senator is suggesting in his amendment. In many other situations, the honourable senator's amendment would probably be the best thing to do, because it would give all parties a way out. I have not seen this government make those kinds of compromises, however, and I see no indication that there is one in the offing right now. I wanted to say that because I have been thinking about this non-stop for the last little while.

Honourable senators, I have something here that I should like to read. It is from Mr. Alpheus Todd, *On Parliamentary Government in England: Its Origin, Development and Practical Operation*, and it is volume 2, 1892. I have a passage where Todd is talking about this phenomenon of bills moving ahead under the opinion of the House or the Houses against or in the face of opposition from the ministry.

Mr. Todd is talking about bills moving ahead in one House or in both Houses, notwithstanding the opposition of the government ministers. He says the following:

But we find no example of any bill being permitted to pass through both Houses to which ministers were persistently opposed. Where the opinion of parliament has been unequivocally expressed in favour of a particular bill, regardless of objections thereto expressed by ministers, it has been the invariable practice for ministers either to relinquish their opposition, in deference to that opinion, and to lend their aid to carry the measure, with such amendments as might be necessary to conform it to their own ideas of public policy, or else to resign.

Therefore, Mr. Todd has spoken. We throw words like “conventions” and so on around, but this is not a matter of any convention here. This is a matter of the law of Parliament and Parliament's practice. The practice is that if a minister has to deal with the fact that the House or the Houses are determined to persist in their opinion then he, the minister, must come on side with the House because that is the notion of confidence, being that a minister cannot be in conflict with the people, or Her Majesty cannot be in conflict with her people.

There have been many instances which, I think, are closer to the one that Senator Murray described about Senator Kinsella's bill, where the minister and the government took over the bill and then moved it ahead themselves, in accord with the wishes of the House and in accord with their own policy — in other words, to find some conciliation, some accommodation and some kind of agreement.

On this bill, I have seen no evidence whatsoever that the government has been willing to make some kind of accommodation with the members of the House of Commons. As a matter of fact, I remember hearing some pretty hard and caustic words about the fact that the House was going in a different direction for the government.

Honourable senators, there is so much about our system that is no longer known and no longer understood. The principle and the practice are such that, if the House is persisting in an opinion the minister has a duty to act accordingly and to come to terms with the House and to put the forces of government and the public treasury, if necessary, behind the meeting the will of the House. That is what ministers are supposed to do.

Senator Spivak said something interesting on a point that Senator Murray brought forward as well. The House of Commons has already decided that they are not treating this as a matter of confidence. Honourable senators, I might as well put another quotation on the record. Senator Murray and Senator Spivak have raised this. There are three ways that confidence is lost, honourable senators. I will quote from Mr. Todd, again from the 1892 book. It begins as follows:

As it is essential that the ministers of the crown should possess the confidence of the popular chamber, so the loss of that confidence will necessitate their retirement from office. The withdrawal of the confidence of the House of Commons from a ministry may be shown either (1) by a direct vote of want of confidence, or of censure for certain specified acts or omission; or (2) by the rejection of some legislated measure proposed by ministers, the acceptance of which by parliament they have declared to be of vital importance;

or, on the other hand, by the determination of parliament to enact a particular law contrary to the advice and consent of the administration.

Honourable senators, to all those concerned here, we are long past the confidence stage. What is before us is not whether the passage of this bill is a question of confidence. We do not have to make that determination. The House of Commons has already made that determination. Furthermore, the government in this place agrees with the House's determination because they have spent the last several weeks acting as an opposition trying to stop the bill. The government supporters here have essentially declared to us that they do not believe there was a question of confidence in the other place anyway, so we need not worry about that because the bill is no longer in their ken, it is in ours.

We should be crystal clear about that. What we have to deal with is the substantive policy issues that are before us, not what should have been or could have been or might have been.

• (2030)

Neither can we, in this day and age, talk about any perfect conditions where governments are acting in conformity with the great rules and practice of the system. I see it daily. There is no regard here for those rules.

I was withdrawn from the Finance Committee, removed, with no discussion with me about it whatsoever, without my agreement. Senator Stratton walked into a committee meeting and made an announcement. I never asked him to do it, I never agreed to it, and it was not true anyway; I never decided to step down as deputy chair from anything.

I believe in this system, and I tell honourable senators again and again: you have to know the history of the free coloured people. We were raised to believe in this system. I am prepared to say any day of the week, any time whatsoever, that I believe in the system, but I also know that when you are in a game or a contest, you must be on equal footing. The rules that apply to me should apply to the others, and I am told daily that they do not apply to the others. I am making my adaptation.

Having said that, honourable senators, I would like to say —

**The Hon. the Speaker *pro tempore*:** Senator Cools, I regret to advise you that your time is finished. Are you asking for more time?

**Senator Cools:** Yes, I am.

**An Hon. Senator:** Five minutes.

**The Hon. the Speaker *pro tempore*:** Five minutes is granted to you, Senator Cools.

**Senator Cools:** I would like to say that Bill C-288 is a product of circumstances. This bill is a progeny of a minority government which will not act like a minority government. In a way, it is the bastard child. I do not know if we know what the word "bastard" means anymore, but it had a certain meaning when I was little.

What we are dealing with, quite frankly, is a situation where we have to rescue this bill. If the government had spent the last six weeks making constructive amendments or demonstrated an

attitude in the spirit of negotiation, I would have been the first to be ready to compromise.

Having said that, honourable senators, Senator Murray's amendment is well-intentioned and a good amendment in many of the circumstances; but not in this one. I will not be voting for it, because I believe that it will be just an opportunity for the government to have its way over the will of the two Houses which has been clearly expressed.

I hope I have made some sense to honourable senators, because, believe me, when we talk about conventions; conventions are the business of Her Majesty. Conventions are about the exercise of power, how the sovereign responds to power, and the rules by which she has given power to prime ministers and to governments but they are Her Majesty's; they are not ours.

**Hon. A. Raynell Andreychuk:** I rise for a short intervention. Senator Murray's amendment is intriguing and I find it one worthy of taking into account.

International treaty-making means that we sign, and then we ratify an agreement internationally, according to the Vienna convention, it means that we do not instantly need to implement, but we must take steps to implement it according to national capabilities, et cetera.

One wonders, when the Kyoto Protocol was signed, what steps were actually taken towards implementation. Having said that, the amendment of Senator Murray would allow the same kind of rationale to allow a government to take steps to implement it as would have been on the date of ratification. I find it an interesting amendment.

On motion of Senator Carstairs, debate adjourned.

## NUNAVIK INUIT LAND CLAIMS AGREEMENT BILL

### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Segal, seconded by the Honourable Senator Keon, for the second reading of Bill C-51, to give effect to the Nunavik Inuit Land Claims Agreement and to make a consequential amendment to another Act.

**Hon. Willie Adams:** Honourable senators, thanks for waiting for the last seven or eight hours.

[*The honourable senator spoke in his native language.*]

Honourable senators, I would like to congratulate Senator Watt Yesterday, he spoke at the beginning of his speech in our mother tongue.

What I said today in Inuktitut is that thousands of years ago, we did not have rules to help us to live together and for living as a family. Since Canada was created, we now live by regulation.



I wish to speak to Bill C-51, the Nunavik land claims agreement. Since 1950, every community was administered by the Minister of Indian Affairs. At that time John Diefenbaker was a friend to the Inuit living in the North, in the future maybe those people will be Canadian. That was in 1950.

In 1953, I ended up in Churchill, Manitoba. At that time they were working on creating Arctic sovereignty in the high Arctic between Resolute Bay and the Grise Fjord. I visited those same people about a year ago this month. I was having my birthday at the Grise Fjord last year, so it will be a year ago tomorrow.

The territorial government at that time was centred in Yellowknife, Northwest Territories. As I mentioned, it was 1953. I got off in Churchill and started working at the military base. I was there for 11 years. In 1964, I moved to Rankin Inlet instead of going back to my hometown in Northern Quebec.

• (2040)

At that time, in 1964, I obtained a job with the Department of Indian and Northern Affairs to look after seven communities. I did not walk or drive to the communities because we did not have a highway. The only way I could go to the seven communities was by airplane.

The same thing happened when I was elected in 1970 for territorial council. I was the only member from the Eastern Arctic and the Keewatin seven communities. In those days, almost every Northern community had its own member.

In 1966, the Department of Indian and Northern Affairs transferred the seat of the Northwest Territories government to Yellowknife. All that area of water in the Arctic east to the tip of Labrador was included in the NWT. As I said earlier, I was elected in 1970 to serve on territorial council for four years. At that time, we started to look into the future of Northern Quebec with respect to boundaries for hunting and water.

At that time, none of Iqaluit, the Northwest Territories, or the provinces had a 12-mile limit. We settled a land claim in 1993, and then we took over the Northwest Territories and spread it over two territories. We ended up with the Nunavut Land Claims Agreement. The water boundary ran right up to Hudson's Bay and up along James Bay, right up to Ungava Bay and up to the tip of Labrador. That was the boundary set out under the Nunavut Land Claims Agreement.

Senator Watt was the President of Makivik when the agreement that led to the Nunavik Land Claims Agreement was signed in 1975. It was my understanding that relations were difficult at that time between the Department of Indian Affairs and the provincial government.

No new restrictions were created. People were able to hunt lake seals, beluga whales and fish. Restrictions have now been established in the Nunavut Land Claims Agreement.

I understand that in the beginning it was difficult for people under the Nunavik land claims agreement — at that time, it was the James Bay and Northern Quebec Agreement between the provincial government and the Department of Indian and Northern Affairs.

I was appointed in 1977 to the Senate. I was here for only a month when we studied the James Bay and Northern Quebec Agreement. I cannot remember every clause we dealt with. Thirty years ago this April, I was appointed to the Senate.

At that time, Senator Crowe was chairing our committee dealing with the James Bay and Northern Quebec agreement. Senator Watt came that spring. That was over 30 years ago.

I have been on the Standing Senate Committee on Energy, the Environment and Natural Resources for over 25 years. We dealt with many things, but one of my main interests will always be species at risk. Senator Bryden is not here tonight, but an amendment in motion has been passed so that the House of Commons will deal with a bill respecting species at risk sometime in the future.

Since the 1970s, we have celebrated animal rights. We have been hurt a few times with respect to agreements since then.

Beginning in 1970, the Government of Canada told us we could not study with respect to seals or Arctic char liver, any fish liver. We cannot eat it. I think at that time the government told animal rights officials that our people there were killing too many seals. I think they should have been told them that those seals had poison in their livers and tongues and could not be hunted anymore. I am not sure it would have made a difference.

Right after that, there was a ban on leghold traps and we were not allowed to buy any more sealskin at Hudson's Bay. In 1970, we started getting rid of the dog teams and going more towards bombardiers, skidoos and guns for hunting and trapping. The price of fur went from \$40 to \$50 down to \$5 or \$2.50. At that time, animal rights activists did not allow us to trap or hunt for seals. That is what happened in the beginning.

For a little over a year, Bill C-51 has been the agreement between the government and Nunavut. Much of the bill relates to people from Northern Quebec and people living in the Baffin and Keewatin regions. We settled at that time. In 1999, we elected 19 members to the legislative assembly in Iqaluit, Nunavut. We now have 19 members who make up the Nunavut government.

Following the agreement in 1993, Nunavut wanted to negotiate the future of the hunt. At that time, the Nunavut government and Department of Fisheries and Oceans created a regulation as to how often one was able to hunt polar bears and whales. We had quotas in Nunavut at that time, but that did not apply to the beluga whales.

Today, the agreement between Nunavut and Nunavik falls within the Nunavut Wildlife Management Board. Section 5.2.1 is the agreement with the Government of Canada dealing with Nunavut harvesting and hunting rights.

• (2050)

Today, the Nunavik land claim agreement, section 5.2.3, is almost exactly the same as the Nunavut agreement that the Government of Canada signed in 2006.

After 1975, people in the community of Nunavik voted for that; to have a future. They voted to have a wildlife management board, just like Nunavut. The community voted 78 per cent in favour of a wildlife management board in Nunavik.

The Nunavut land claim agreement was signed with the Government of Canada in 1993. We have agreed to work together with Nunavik in the future on the hunting and harvesting rights between the Nunavut and Nunavik.

In the meantime, last March, Senator Rompkey —

**The Hon. the Speaker pro tempore:** I regret to advise the honourable senator that his time has expired. Are you asking for more time?

**Senator Adams:** I am.

**Hon. Senators:** Agreed.

**Senator Adams:** Thank you, honourable senators. This issue is important.

**The Hon. the Speaker pro tempore:** Senator Adams, you have five more minutes.

**Senator Adams:** After eight hours of waiting; now five more minutes.

In the meantime, on March 22, scientists from the DFO told us about the movement of the beluga between Hudson Bay up to Baffin Strait up to the Beaufort Sea. At the beginning, without quotas, the beluga population went down to 1,800 from 13,500. It was not our fault, because Europeans were coming here to hunt the whales and taking the oil back to Europe. That was the beginning.

The Government of Canada looked into how the beluga increased at that time to 1,850. The year was 2006. Between the Hudson Bay up to Ungava, Labrador, Baffin, Cumberland Sound and the Beaufort Sea the whale population today is 122,300. In the meantime, they told us there are only 200 left around Ungava.

Four or five years ago, Bill C-5 passed through the Standing Senate Committee on Energy, the Environment and Natural Resources. We found out that those 200 do not mix with the 123,000 whales. We asked why not, and the scientists would not tell us. The only thing they would tell us is maybe next year they will get the DNA of those 200 whales to see if they became those 123,000 whales. We had never heard anything like that before. That is why I have a problem with those people on Ungava Bay, with only 200 whales left that do not mix with the other 123,000 whales and migrate together. One goes to one place and stays there and another one keeps going. In the meantime, our witnesses from Ungava told us they see whales nine months a year.

DFO conducted a study of killer whales last year in the Hudson Bay. I asked the question: How many killer whales kill belugas? The scientists say they do not eat beluga. I asked, "Why was it named the killer whale?" They say they eat fish and seals.

I talked to my friend, a hunter, and told him that they say killer whales do not kill whales. One time I was chasing a beluga and a killer whale came along, he bought him a net and put him right up in the air. That is the kind of stuff we get sometimes from our government. We know how they live.

We try not to over-kill; we just try to take what we need.

**The Hon. the Speaker pro tempore:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** On division.

Motion agreed to, on division, and bill read second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker pro tempore:** Honourable senators, when shall this bill be read a third time?

On motion of Senator Segal, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

## BUSINESS OF THE SENATE

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, before we go to reports of committees, I was wondering if the house might entertain a motion that would allow for television and photographers for tomorrow's Royal Assent. The Governor General will be here; it will be a full-fledged Royal Assent. Generally, when we do have the full Royal Assent ceremony, we allow cameras, and so forth.

**Hon. Senators:** Agreed.

**Senator Comeau:** Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(j), I move,

That television cameras be authorized in the Senate Chamber to televise the Royal Assent ceremony on Friday, June 22, 2007, with the least possible disruption of the proceedings; and

That photographers be authorized in the Senate Chamber to photograph the ceremony, with the least possible disruption of the proceedings.

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

• (2100)

## ACCESS TO INFORMATION ACT CANADIAN WHEAT BOARD ACT

### BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Peterson, for the second reading of Bill S-224, to amend the Access to Information Act and the Canadian Wheat Board Act.—(Honourable Senator Gustafson)



**Hon. Robert W. Peterson:** Honourable senators, I rise to speak on Bill S-224, the legislation that would subject the Canadian Wheat Board to access to information legislation just as though it were a government entity entirely within the federal system.

I find it interesting that the government is pressing ahead with this matter even though the parent legislation, Bill C-2, has yet to be enacted. Why is the government so determined to press ahead with this relatively minor aspect of Bill C-2 at this time? I would suggest it is not because the government wants to improve public access to information. It is because the government does not like the Canadian Wheat Board, never has liked the Canadian Wheat Board and sees this as an opportunity to further weaken the board by stealth rather than by frontal attack.

**Some Hon. Senators:** Hear, hear.

**Senator Peterson:** I refer my fellow senators and those monitoring this legislation to the presentation by Ken Ritter, Chair of the Canadian Wheat Board, to the Standing Senate Committee on Legal and Constitutional Affairs on September 20, 2006. Mr. Ritter points out that Bill S-224 adds the Canadian Wheat Board to the list of entities referred to as "other government agencies." The simple fact is that the board is not a government agency. The Canadian Wheat Board is governed by an independent board of directors, of which 10 out of 15 are elected by farmers. The act under which the Canadian Wheat Board operates specifically states that the board is neither an agent of the Crown nor a Crown corporation.

The Canadian Wheat Board is fully accountable to the western grain farmers who sell their products through it. It has its own accountability policy, which is posted on its website. Through this policy, it discloses such things as market performance and delivery-related information. However, the policy protects personal information about farmers and commercially and strategically sensitive marketing material. Also, as I have mentioned, the freely producer-elected directors are fully accountable to their constituents, the farmers of their districts and the West.

Therefore, honourable senators, the Canadian Wheat Board is not a government agency. It is a fully accountable, independent agency that serves western Canadian farmers.

The Canadian Wheat Board is one of the world's largest grain marketers. It markets close to 20 million tonnes of grain on behalf of our farmers every year. This amounts to annual sales of over \$4 billion in some commodities such as high-quality spring wheat and durum. It supplies more than half the world's trade.

In its daily and year-round work, the Canadian Wheat Board operates in a highly competitive marketplace, competing on behalf farmers against huge private organizations, including organizations that operate in places like the United States and the European Union where farmers receive huge agricultural subsidies.

Through Bill S-224, the government seeks to further handicap the Canadian Wheat Board by having it disclose information that its competitors can use against it in the marketplace. The huge

private corporations that operate in the international grain marketing system must be rubbing their hands with glee. Canada is going to force its main player in the grain marketing system to reveal its hand before every play.

Perhaps those who drafted this legislation have never played poker. I have to say immediately that I think they are poker players, but they are playing another game.

The purpose of this legislation is not to improve access to information within the government system but to weaken the Canadian Wheat Board, which the party in power at present has been trying to do for years. The government believes that if they can weaken the Canadian Wheat Board as a player on the world stage on behalf of farmers, it will become easier to eliminate the board altogether.

This is the thin edge of the wedge designed to fundamentally damage the Canadian Wheat Board. Once the board is weakened in this way and less able to do its fine work on the world stage, the government will be able to say, "I told you so," and will have fulfilled its own prophecy.

Another example of the insensitivity of this government towards farmers is found in their treatment of the Canadian Grain Commission. For many years, farmers have had on-the-ground support from the Canadian Grain Commission through their Assistant Commissioners, who, for the most part, are the only Canadian Grain Commission representatives our farmers speak to on a daily basis across the Prairies. Now, the current Minister of Agriculture refuses to fill vacant Assistant Commissioner positions, leaving farmers yet again without the support and advocacy they have historically had, leaving them with no one to turn to, especially in situations where they feel they have been mistreated by the grain companies.

The current Minister of Agriculture does not seem to value nor even understand the role of these Assistant Commissioners. He does not understand nor appreciate that farmers lack the resources and power to confront the grain companies, which, in a dispute, often bully the farmer who cannot adequately defend himself. It means the Minister of Agriculture does not understand the nature of business relationships where one party has much more knowledge and power than another. It is just one more voice lost to the farmers, not dissimilar at all to what we are now going through with the government and the Canadian Wheat Board.

One of the ironies here is that the World Trade Organization appears to have no objection to the Canadian Wheat Board in its present form. There is no international pressure on the government to change the Canadian Wheat Board. That pressure is coming from within the governing party itself.

Honourable senators, I urge you to see this legislation for what it is. It is not designed to improve access to information; it is designed to undermine a fine Canadian institution, the Canadian Wheat Board.

**Some Hon. Senators:** Hear, hear.

On motion of Senator Gustafson, debate adjourned.

• (2110)

## OLYMPIC AND PARALYMPIC MARKS BILL

BANKING, TRADE AND COMMERCE—  
RESERVATIONS BY INTELLECTUAL PROPERTY  
INSTITUTE OF CANADA

**Hon. W. David Angus:** Honourable senators, with your leave, I seek permission to revert briefly to the Orders of the Day regarding Bill C-47 on the Olympic logo. Senator Campbell and I had undertaken to put something on the record at third reading but through inadvertence, it was not done. If I could have your leave, I would like to do so now.

**The Hon. the Speaker:** Is leave granted? It is just for clarity. The bill is no longer before us, but Senator Angus is asking the house for leave to make a statement on behalf of the Standing Senate Committee on Banking, Trade and Commerce. Is it agreed?

**Hon. Senators:** Agreed.

**Senator Angus:** Thank you, honourable senators. When we studied Bill C-47 yesterday, the only opposition to the bill came from the Intellectual Property Institute of Canada, who pointed out that there were provisions in the bill that involved the protection of various Olympic trademarks. The usual conditions for obtaining an interim interlocutory injunction would be modified and the provision that required the demonstration of irreparable harm being caused was left out. This sets a bit of a precedent, and the Intellectual Property Institute indicated that they felt it was a dangerous precedent.

We called the chairman of the Vancouver Olympic committee to give his explanation. He gave a satisfactory explanation and tabled a letter, dated February 6, addressed to the Honourable Maxime Bernier, Minister of Industry, with proof that the letter had been received, signed by John A. Furlong, Chief Executive Officer of VANOC.

That letter forms part of the record of the hearings of June 20, 2007, of the Standing Senate Committee on Banking, Trade and Commerce. We felt, as did the witness, that there should be a little bit more comfort given by having a reference made at third reading and noted in the *Debates of the Senate*.

## ABORIGINAL PEOPLES

BUDGET—STUDY ON RECENT REPORTS AND ACTION  
PLAN CONCERNING DRINKING WATER  
IN FIRST NATIONS' COMMUNITIES—  
REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the ninth report of the Standing Senate Committee on Aboriginal Peoples (budget—study on drinking water in First Nations' communities), presented in the Senate on June 19, 2007.—(*Honourable Senator St. Germain, P.C.*)

**Hon. Gerry St. Germain** moved the adoption of the report.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

## NATIONAL CAPITAL ACT

BILL TO AMEND—REPORT OF COMMITTEE—  
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Moore, for the adoption of the eighth report of the Standing Senate Committee on Energy, the Environment and Natural Resources (Bill S-210, to amend the National Capital Act (establishment and protection of Gatineau Park), with amendments and observations), presented in the Senate on June 7, 2007.—(*Honourable Senator Nolin*)

**Hon. Mira Spivak:** Honourable senators, I do not wish to speak to this again; I have spoken. I would merely like to have it brought to a vote.

On motion of Senator Comeau, debate adjourned.

[Translation]

## OFFICIAL LANGUAGES

BUDGET AND AUTHORIZATION  
TO ENGAGE SERVICES—STUDY ON STATE  
OF FRANCOPHONE CULTURE IN CANADA—  
REPORT OF COMMITTEE ADOPTED

The Senate proceeded to the consideration of the ninth report of the Standing Senate Committee on Official Languages, (budget—study on the francophone culture in Canada—power to hire staff and to travel), presented in the Senate on June 20, 2007.—(*Honourable Senator Keon*)

**Hon. Maria Chaput** moved the adoption of the report.

Motion agreed to and report adopted.

[English]

INTERNAL ECONOMY, BUDGETS  
AND ADMINISTRATION

EIGHTEENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighteenth report of the Standing Committee on Internal Economy, Budgets and Administration, (amendments to the *Senate Administrative Rules*), presented in the Senate on June 20, 2007.—(*Honourable Senator Furey*)

**Hon. George J. Furey** moved the adoption of the report.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.



## TRANSPORT AND COMMUNICATIONS

### BUDGET—STUDY ON CONTAINERIZED FREIGHT TRAFFIC—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the twelfth report of the Standing Senate Committee on Transport and Communications, (budget—release of additional funds (study on containerized freight traffic handled by Canada's ports)), presented in the Senate on June 20, 2007.—(*Honourable Senator Tkachuk*)

**Hon. David Tkachuk** moved the adoption of the report.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

## THE SENATE

### MOTION URGING GOVERNOR GENERAL TO FILL VACANCIES IN SENATE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Phalen:

That an humble Address be presented to Her Excellency the Governor General praying that she will fill the vacancies in the Senate by summons to fit and qualified persons.  
—(*Honourable Senator Tardif*)

**Hon. Sharon Carstairs:** Honourable senators, it is my intention to speak to this motion, but I am not prepared to speak to it

tonight. Therefore, I move the adjournment of the debate in my name because Senator Tardif actually took this adjournment in my name.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**An Hon. Senator:** On division.

On motion of Senator Carstairs, debate adjourned, on division.

## FISHERIES AND OCEANS

### COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY ON NEW AND EVOLVING POLICY FRAMEWORK FOR MANAGING FISHERIES AND OCEANS

**Hon. Bill Rompkey**, pursuant to notice of June 20, 2007, moved:

That, notwithstanding the Order of the Senate adopted on Tuesday, May 16, 2006, that the Standing Senate Committee on Fisheries and Oceans authorized to examine and report on issues relating to the federal government's new and evolving policy framework for managing Canada's fisheries and oceans, be empowered to extend the date of presenting its final report from June 29, 2007 to June 27, 2008; and

That the Committee retain until August 15, 2008 all powers necessary to publicize its findings.

Motion agreed to.

The Senate adjourned until tomorrow at 9 a.m.

## CONTENTS

Thursday, June 21, 2007

	PAGE		PAGE
<b>The Late Sergeant Christos Karigiannis</b>		<b>Olympic and Paralympic Marks Bill (Bill C-47)</b>	
<b>The Late Corporal Stephen Bouzane</b>		Report of Committee.	
<b>The Late Private Joel Wiebe</b>		Hon. W. David Angus . . . . .	2821
Silent Tribute.			
The Hon. the Speaker . . . . .	2817		
<hr/>			
<b>SENATORS' STATEMENTS</b>		<b>Canadian NATO Parliamentary Association</b>	
		Parliamentary Transatlantic Forum, December 11-12, 2006—	
		Report Tabled.	
<b>National Aboriginal Day</b>		Hon. Pierre Claude Nolin . . . . .	2821
Hon. Gerry St. Germain . . . . .	2817	Joint Meeting of Defence and Security, Economics	
Congratulations to Sheila Watt-Cloutier on Receiving United		and Security, and Political Committees and Annual Economics	
Nations Award Mahbub ul Haq For Human Development.		and Security Committee Meeting, February 18-22, 2007—	
Hon. Céline Hervieux-Payette . . . . .	2817	Report Tabled.	
		Hon. Pierre Claude Nolin . . . . .	2821
<b>Canada-United States Relations</b>			
Devils Lake, North Dakota—		<b>Canada-Europe Parliamentary Association</b>	
Effect of Flood Control System on Manitoba.		Organization for Security and Co-operation in Europe,	
Hon. Janis G. Johnson . . . . .	2817	Winter Meeting, February 23-27—Report Tabled.	
		Hon. Pierre Claude Nolin . . . . .	2821
<b>National Aboriginal Day</b>			
Hon. Sharon Carstairs . . . . .	2818	<b>National Finance</b>	
		Notice of Motion to Authorize Committee to Extend Date	
<b>Environmental Effects of 2,4-D</b>		of Final Report on Study of Issues Relating to Fiscal Balances	
Hon. Mira Spivak . . . . .	2818	Among Orders of Government.	
		Hon. Joseph A. Day . . . . .	2821
<b>National Aboriginal Day</b>		<hr/>	
Hon. Larry W. Campbell . . . . .	2818	<b>QUESTION PERIOD</b>	
<b>The Honourable Pierrette Ringuette</b>		<b>Indian Affairs and Northern Development</b>	
<b>The Honourable Rose-Marie Losier-Cool</b>		Kelowna Accord—United Nations Declaration	
Congratulations on Receiving the Order of la Pléiade.		on Rights of Indigenous Peoples.	
Hon. Grant Mitchell . . . . .	2819	Hon. Céline Hervieux-Payette . . . . .	2822
		Hon. Marjory LeBreton . . . . .	2822
		Hon. Roméo Antonius Dallaire . . . . .	2822
<hr/>			
<b>ROUTINE PROCEEDINGS</b>		<b>National Defence</b>	
		Afghanistan—Promotion of Mission.	
<b>Study on Issues Relating to Fiscal Balances Among Orders</b>		Hon. Roméo Antonius Dallaire . . . . .	2823
<b>of Government</b>		Hon. Marjory LeBreton . . . . .	2823
Second Interim Report of National Finance Committee Tabled.			
Hon. Joseph A. Day . . . . .	2819	<b>Indian Affairs and Northern Development</b>	
		Land Claims Process.	
<b>Budget Implementation Bill, 2007 (Bill C-52)</b>		Hon. Gerry St. Germain . . . . .	2824
Report of Committee.		Hon. Marjory LeBreton . . . . .	2824
Hon. Joseph A. Day . . . . .	2819	Cutting of Assistance Programs.	
		Hon. Charlie Watt . . . . .	2824
<b>Geneva Conventions Act</b>		Hon. Marjory LeBreton . . . . .	2825
<b>Act to Incorporate the Canadian Red Cross Society</b>		Kelowna Accord.	
<b>Trademarks Act (Bill C-61)</b>		Hon. Sandra Lovelace Nicholas . . . . .	2825
Bill to Amend—Report of Committee.		Hon. Marjory LeBreton . . . . .	2825
Hon. Consiglio Di Nino . . . . .	2820	Indian Residential Schools Settlement Agreement—	
		Apology to Victims.	
<b>Quarantine Act (Bill C-42)</b>		Hon. Lillian Eva Dyck . . . . .	2825
Bill to Amend—Report of Committee.		Hon. Marjory LeBreton . . . . .	2825
Hon. Art Eggleton . . . . .	2820		
		<b>The Senate</b>	
<b>Citizenship Act (Bill C-14)</b>		Tribute to Departing Pages.	
Bill to Amend—Report of Committee.		The Hon. the Speaker . . . . .	2825
Hon. Art Eggleton . . . . .	2820	<hr/>	
		<b>ORDERS OF THE DAY</b>	
<b>Criminal Code (Bill C-59)</b>			
Bill to Amend—Report of Committee.		<b>Business of the Senate</b>	
Hon. David Tkachuk . . . . .	2821	Hon. Gerald J. Comeau . . . . .	2826



PAGE	PAGE
Conduct of Business on Friday, June 22, 2007—Motion Adopted.	
Hon. Gerald J. Comeau . . . . .	2826
Hon. Claudette Tardif . . . . .	2827
Hon. Terry M. Mercer . . . . .	2827
Hon. Tommy Banks . . . . .	2827
Hon. Wilfred P. Moore . . . . .	2827
<b>Citizenship Act (Bill C-14)</b>	
Bill to Amend—Third Reading.	
Hon. Consiglio Di Nino . . . . .	2827
<b>Olympic and Paralympic Marks Bill (Bill C-47)</b>	
Third Reading.	
Hon. Marjory LeBreton . . . . .	2828
<b>Geneva Conventions Act</b>	
<b>Act to Incorporate the Canadian Red Cross Society</b>	
<b>Trade-marks Act (Bill C-61)</b>	
Bill to Amend—Third Reading.	
Hon. Janis G. Johnson . . . . .	2828
Hon. Yoine Goldstein . . . . .	2828
Hon. Eymard G. Corbin . . . . .	2829
<b>Quarantine Act (Bill C-42)</b>	
Bill to Amend—Third Reading—Debate Adjourned.	
Hon. Wilbert J. Keon . . . . .	2829
<b>Criminal Code (Bill C-59)</b>	
Bill to Amend—Third Reading—Debate Adjourned.	
Hon. Janis G. Johnson . . . . .	2829
Hon. Joseph A. Day . . . . .	2830
Hon. Dennis Dawson . . . . .	2830
<b>Budget Implementation Bill, 2007 (Bill C-52)</b>	
Third Reading—Debate Adjourned.	
Hon. Gerald J. Comeau . . . . .	2831
Hon. Bill Rompkey . . . . .	2831
Hon. W. David Angus . . . . .	2831
Hon. Lowell Murray . . . . .	2834
Hon. Gerry St. Germain . . . . .	2837
Hon. Elaine McCoy . . . . .	2838
Motion in Amendment.	
Hon. Elaine McCoy . . . . .	2839
Hon. Tommy Banks . . . . .	2839
Hon. Claudette Tardif . . . . .	2840
Hon. George Baker . . . . .	2840
Motion in Amendment.	
Hon. George Baker . . . . .	2841
Hon. Joseph A. Day . . . . .	2841
Hon. Anne C. Cools . . . . .	2843
Hon. Hugh Segal . . . . .	2844
Hon. Wilfred P. Moore . . . . .	2844
Motion in Amendment.	
Hon. Wilfred P. Moore . . . . .	2845
Hon. Joseph A. Day . . . . .	2846
Hon. Pana Merchant . . . . .	2846
Hon. Jane Cordy . . . . .	2848
Hon. Lowell Murray . . . . .	2849
Hon. Terry Mercer . . . . .	2851
Hon. Pierrette Ringuette . . . . .	2853
Hon. Marilyn Trenholme Counsell . . . . .	2855
Hon. James S. Cowan . . . . .	2857
Hon. Consiglio Di Nino . . . . .	2858
Hon. W. David Angus . . . . .	2861
Hon. Sharon Carstairs . . . . .	2861
Hon. Terry Stratton . . . . .	2861
Hon. Bill Rompkey . . . . .	2862
Hon. Anne C. Cools . . . . .	2863
<b>Business of the Senate</b>	
Hon. Gerald J. Comeau . . . . .	2863
Hon. Bill Rompkey . . . . .	2863
<b>Kyoto Protocol Implementation Bill (Bill C-288)</b>	
Third Reading—Motion in Amendment—Debate Continued.	
The Hon. the Speaker . . . . .	2865
Motion in Amendment.	
Hon. Lowell Murray . . . . .	2865
Hon. Tommy Banks . . . . .	2866
Hon. George Baker . . . . .	2867
Hon. Mira Spivak . . . . .	2867
Hon. Anne C. Cools . . . . .	2869
Hon. A. Raynell Andreychuk . . . . .	2871
<b>Nunavik Inuit Land Claims Agreement Bill (Bill C-51)</b>	
Second Reading.	
Hon. Willie Adams . . . . .	2871
Referred to Committee . . . . .	2873
<b>Business of the Senate</b>	
Hon. Gerald J. Comeau . . . . .	2873
<b>Access to Information Act</b>	
<b>Canadian Wheat Board Act (Bill S-224)</b>	
Bill to Amend—Second Reading—Debate Continued.	
Hon. Robert W. Peterson . . . . .	2874
<b>Olympic and Paralympic Marks Bill (Bill C-47)</b>	
Banking, Trade and Commerce—Reservations by Intellectual Property Institute of Canada.	
Hon. W. David Angus . . . . .	2875
<b>Aboriginal Peoples</b>	
Budget—Study on Recent Reports and Action Plan Concerning Drinking Water in First Nations' Communities— Report of Committee Adopted.	
Hon. Gerry St. Germain . . . . .	2875
<b>National Capital Act (Bill S-210)</b>	
Bill to Amend—Report of Committee—Debate Continued.	
Hon. Mira Spivak . . . . .	2875
<b>Official Languages</b>	
Budget and Authorization to Engage Services—Study on State of Francophone Culture in Canada— Report of Committee Adopted.	
Hon. Maria Chaput . . . . .	2875
<b>Internal Economy, Budgets and Administration</b>	
Eighteenth Report of Committee Adopted.	
Hon. George J. Furey . . . . .	2875
<b>Transport and Communications</b>	
Budget—Study on Containerized Freight Traffic— Report of Committee Adopted.	
Hon. David Tkachuk . . . . .	2876
<b>The Senate</b>	
Motion Urging Governor General to Fill Vacancies in Senate— Debate Continued.	
Hon. Sharon Carstairs . . . . .	2876
<b>Fisheries and Oceans</b>	
Committee Authorized to Extend Date of Final Report on Study on New and Evolving Policy Framework for Managing Fisheries and Oceans.	
Hon. Bill Rompkey . . . . .	2876







*If undelivered, return COVER ONLY to:*  
Public Works and Government Services Canada  
Publishing and Depository Services  
Ottawa, Ontario K1A 0S5



1  
32



CANADA



# Debates of the Senate

---

1st SESSION

•

39th PARLIAMENT

•

VOLUME 143

•

NUMBER 113

---

OFFICIAL REPORT  
(HANSARD)

**Friday, June 22, 2007**



THE HONOURABLE NOËL A. KINSELLA  
SPEAKER



## CONTENTS

(Daily index of proceedings appears at back of this issue).

---

*Debates and Publications:* Chambers Building, Room 943, Tel. 996-0193

Published by the Senate  
Available from PWGSC – Publishing and Depository Services, Ottawa, Ontario K1A 0S5.  
Also available on the Internet: <http://www.parl.gc.ca>

## THE SENATE

Friday, June 22, 2007

The Senate met at 9 a.m., the Speaker in the chair.

Prayers.

[Translation]

### ROYAL ASSENT

#### NOTICE

**The Hon. the Speaker** informed the Senate that the following communication had been received:

#### RIDEAU HALL

June 22, 2007

Mr. Speaker,

I have the honour to inform you that the Right Honourable Michaëlle Jean, Governor General of Canada, will proceed to the Senate Chamber today, the 22nd day of June, 2007, at 12:00 p.m. for the purpose of giving Royal Assent to certain bills of law.

Yours sincerely,

Sheila-Marie Cook  
*Secretary to the Governor General*

The Honourable  
The Speaker of the Senate  
Ottawa

[English]

### SENATOR'S STATEMENT

#### NATIONAL ABORIGINAL DAY

**Hon. Lillian Eva Dyck:** Honourable senators, yesterday was National Aboriginal Day, a day to celebrate the contributions that Aboriginal people have made to Canada.

I take this opportunity to honour and thank the elders in our Aboriginal communities. They are the carriers of traditional knowledge and wisdom. They are like living encyclopedias. They have wisdom and knowledge acquired over a lifetime of experience — acquired by participating in sacred ceremonies, by learning from their own elders and by lessons learned from overcoming the obstacles in their own lives.

Honourable senators, on this day I want to thank four elders from Saskatchewan. First, I thank the late Elder Emma Sand from the Mistawasis First Nation. She taught me to honour my heart and to speak not only from my mind, but also from my heart. She also told me that when speaking, one should not use

only a prepared text. She said that one must ask the Creator to guide one's words, and in that way, one will be speaking to the person or people to whom one is meant to speak.

• (0905)

Second, I thank the late Elder Smith Atimoyoo for his wisdom. He explained to me the meaning of the Cree phrase, "Napêkaso kasispowataw." I did not learn Cree at home and now have learned only a few words. In its simplest interpretation, the phrase means, "be like a man — this is something to remember me by." Its deeper meaning though, he explained to me at length, was that I had to have the courage and strength of a man in order to overcome what I had been taught to believe in mainstream society and, instead, live in accordance with what I know is the right way to live. This deeply philosophical and spiritual message is one that I still struggle to understand and live by.

Third, I thank Elder Laura Wasacase from Ochapawase First Nation for taking me under her wing and teaching me how to honour myself as an Aboriginal woman, for sharing her wisdom with me and for including me in her woman's circle.

Lastly, I want to thank a non-Aboriginal elder, the late Mr. A. John Dyer, who was my chemistry teacher from high school. He saw the potential in me and my brother and set us on the path to university education, and most certainly, he would have believed what our Aboriginal elders in Saskatchewan say: "Paskwâw mostoswa kâ-kisk-inwaha-mâ-kêhk," which in English means, "education is our buffalo."

[Translation]

### ROUTINE PROCEEDINGS

#### ADJOURNMENT

#### NOTICE OF MOTION

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, September 18, 2007, at 2 p.m.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Some Hon. Senators:** No.

[English]

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Some Hon. Senators:** No.



## QUESTION PERIOD

### BUSINESS OF THE SENATE

**Hon. Wilfred P. Moore:** Honourable senators, some of you might not recognize me without my sandwich board protest sign on today, as is quoted in *The Globe and Mail*.

An article in *The Globe and Mail* today states:

The House Leader for the Conservative government, Peter Van Loan, said he is pleased to hear that the Senate will pass the government's budget.

"It's an excellent budget and I'm glad to see it has the prospect of becoming law," he said. Mr. Van Loan said he would have preferred to see the Senate sit a bit longer though to pass a handful of crime bills.

• (0910)

I would ask the Leader of the Government in the Senate what is the government's intention? How many more weeks does she foresee us sitting?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for the question. I always caution honourable senators not to believe everything they read in the newspapers. I have not seen the article. The fact is that the Senate is dealing with these issues and it will be the senators themselves who will ascertain how much longer we will sit.

**Hon. Sharon Carstairs:** Honourable senators, my question is to the Leader of the Government in the Senate. I assume from the motion that the deputy leader attempted to move a few minutes ago, and to which leave was denied, that it would be the intention of the government that we would rise today and not sit until September 18; is that correct?

**Senator LeBreton:** Yes, honourable senators, that is absolutely correct. Senators have worked extremely hard over the past number of weeks. I speak here for myself and honourable senators on this side and, I hope, for those on the other side. We have worked very hard both in the chamber and in committee.

Honourable senators, I believe that pursuant to the motion that was passed and the votes that we will have today, that will allow the Senate to adjourn until the session resumes in mid-September.

### PUBLIC WORKS AND GOVERNMENT SERVICES

#### PARLIAMENT HILL—REPLACEMENT OF LIGHT BULBS

**Hon. Terry M. Mercer:** Honourable senators, I have a question for the Minister of Public Works and Government Services. Perhaps over the summer the minister could endeavour to talk to his department about the replacement of light bulbs around Parliament Hill.

**Senator Rompkey:** Including Van Loan!

**Senator Mercer:** Well, that is true, there is not a bright bulb amongst them. Perhaps we could help the minister find one or two.

It has been observed around Parliament Hill over the past two weeks, as we have worked hard on our Kyoto bill and as we have worked hard on our green plan amongst our staff on Parliament Hill, that a number of the replacement bulbs being used on Parliament Hill are of the old type and not the new type, which would save the government money and would show some leadership. I hope that the Minister of Public Works would take that proposition under his wing, and perhaps he could be around Parliament Hill changing those bulbs himself this summer.

**Hon. Michael Fortier (Minister of Public Works and Government Services):** Honourable senators, I did not get the memo that indicated that the opposition benches had changed their Public Works critic. I find myself very disappointed that Senator Carstairs has handed this responsibility over to Senator Mercer.

**Senator Mercer:** You should be thankful.

**Senator Fortier:** No, I was enjoying this. Having said that, we will look into this; I think the honourable senator has made a valid point.

**Senator Mercer:** I should point out that Senator Carstairs and I come from the same hometown. We are cut from the same cloth. Her father was Premier of the Province of Nova Scotia. We both have a bit of that caustic nature.

### ISSUANCE OF SOLE SOURCE CONTRACTS

**Hon. Terry M. Mercer:** Honourable senators, in this morning's *Ottawa Citizen*, it is reported that this government — that is, Canada's quickly-growing-old government —

**Senator Munson:** No, it is the "not-so-new government."

**Senator Mercer:** — has been issuing sole source contracts at a rate higher than the previous government. My memory is not that good, but I do remember this being a complaint of this group of people when they were on the other side.

Perhaps the Minister of Public Works, who is responsible for many of these contracts, could explain to us why this percentage has moved up so high in the short time that this government has been in power.

**Hon. Michael Fortier (Minister of Public Works and Government Services):** Honourable senators, actually the percentage has not increased. It is a question of whether or not one counts Advance Contract Award Notices, or ACANS, as being sole sourced. In fact, they are not. They are competed contracts.

Over the past 18 months since we have formed government, we have transformed procurement. We have adopted the Accountability Act, made things far more transparent and fair for suppliers across Canada, and opened offices to attract more small- and medium-sized enterprises to the table in the hope that

many more of these people would be interested in supplying assets to the Government of Canada. All things considered, taxpayers are winning, Senator Mercer.

• (0915)

With respect to the military, to which I know the honourable senator is alluding, they are now getting the equipment they badly need and richly deserve, and they are getting it in record time. As well, taxpayers are getting good deals from manufacturers. It is a win-win-win situation.

**Senator Mercer:** I thank the minister for the answer. Since the minister is talking about purchases on a regional basis and about allowing smaller enterprises to benefit from the large amount of funds this government spends, perhaps when we sit again he could give us a detailed report, broken down on a regional basis. I can provide written questions to help with this, if necessary. As the minister knows, I have spoken, as have my colleague Senator Downe and others, about decentralization of government and decentralization of purchasing, so if this is a good news story, we would like to be able to pat the minister on the back, if he can provide a report on that.

**Senator Fortier:** We would be happy to break down the figures by region for honourable senators. At the end of day, the honourable senator needs to remind himself that we are looking to save taxpayers' dollars. In that sense, he will find that rather than being focused on the source of the goods and services we are focused on the cost to taxpayers of those goods and services. The cost to taxpayers should be the honourable senator's preoccupation as well, but we will provide these figures.

**Senator Mercer:** Honourable senators, I shall determine what my preoccupation should be.

#### RESERVES—JOB PROTECTION WHILE IN SERVICE— CONTRACT COMPLIANCE

**Hon. Hugh Segal:** Honourable senators, my question is for the Minister of Public Works, and it relates to a motion passed unanimously by this chamber with respect to protecting the jobs of our reservists when they volunteer for service abroad with our Armed Forces. As the minister knows, his colleague the Minister of National Defence is working hard both on agreements with the provinces and on policies with respect to our own federal administration on job protection for members of the Armed Forces reserve who serve abroad.

Could I ask the minister whether he might reflect upon the use of contract compliance for private-sector suppliers to the Crown? We now have a series of contract compliance obligations for those who supply the Crown around a range of accountabilities, such as environmental, workplace safety and other issues. Could the minister reflect and look into whether contract compliance could be another instrument to be used to broaden the base for our reserves and their job protection when they volunteer to serve Canada with great courage in difficult theatres abroad?

**Hon. Michael Fortier (Minister of Public Works and Government Services):** I thank the honourable senator for the question. I would be happy to look into this.

#### COST OF REGIONAL DIVERSIFICATION

**Hon. Roméo Antonius Dallaire:** I have a supplementary question for the Minister of Public Works. Historically, when defence budgets are being established and the procurement process is in motion, we have seen massive projects respond to regional requirements, such as Western Economic Diversification, ACOA and so on.

I remember particularly a project of \$2.1 billion of communications equipment where, to meet the western diversification requirement, the construction of all the equipment moved out West to Calgary and set up shop, and it cost over \$200 million just to do that. That was \$200 million worth of equipment that was not acquired because we had to build that capability.

When the minister has to meet diversification requirements, spread things around regionally, can he tell us whether the extra costs are being provided from outside funds rather than DND funding?

**Hon. Michael Fortier (Minister of Public Works and Government Services):** With respect to contracting per se, the cross-subsidization, as the honourable senator is referring to, is rare, thankfully. We at PWGSC have a policy such that if we require goods and services in any particular area of the country we open the opportunity to anyone around the country to offer those goods and services.

For example, if we are looking for furniture, it will probably be cheaper for someone on the West Coast to bid on a contract and delivery on the West Coast than for someone on the East Coast. This equilibrium is reached naturally by the mere fact that our needs are not just here in Ottawa but are around the country.

• (0920)

#### FINANCE

##### PARLIAMENTARY BUDGET OFFICER

**Hon. Joseph A. Day:** My question is for the Leader of the Government in the Senate. The leader will be painfully aware of the difficulty of senators obtaining information from the Department of Finance with respect to the proposals under Bill C-52, in relation to the per capita transfer, the equalization and the analysis of those proposals. Can the leader tell us when the government is likely to move on the Bill C-2 Federal Accountability Act provision for a parliamentary budget officer who will be there to help us?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** As the honourable senator knows, many aspects of the Federal Accountability Act require regulation. We have been working on the regulations and filling the positions for people who are to be responsible for these various areas that fall under the Federal Accountability Act.

Only last week the Ethics Commissioner for the House of Commons, Mary Dawson, was approved. In this very chamber, we approved the appointment of Christiane Ouimet as Public Sector Integrity Commissioner.



I will take Senator Day's question as notice and hopefully provide him an answer in the near future.

[Translation]

## PUBLIC WORKS AND GOVERNMENT SERVICES

### OPPORTUNITIES FOR MINISTER TO RUN IN BY-ELECTIONS

**Hon. Dennis Dawson:** Honourable senators, my question is for the Minister of Public Works and Government Services. I will take this opportunity to wish the minister a good summer.

The minister does not appear to be very happy in this chamber. Could he not take advantage of the opportunity presented by the three by-elections being held in the Province of Quebec, so as to join that other House, where he could play a role that would make him happier?

**Hon. Michael Fortier (Minister of Public Works and Government Services):** Honourable senators, I am very happy any time Senator Dawson asks me a question. If he were here more often, it would make me even happier.

Now that we have established how happy we all are, I would like to point out that I hoisted my flag nine months ago in Vaudreuil-Soulanges, by opening my offices there. I consider myself practically the member for that riding. If anyone would like to see me in the other House sooner, I invite Senator Dawson to convince the member for that riding to find other interests in life. Until there is a by-election or general election in that riding, I will stay right here with you and anxiously await your questions.

[English]

**Senator Dawson:** I am sure, if the minister wanted a seat, we could find one through an election in Ontario. However, I hope the opportunity during the summer to help people in Quebec will give the minister time to look at the funding for the festivals in Quebec, and will give him an opportunity to try to convince the Quebec government, which has clearly indicated it is totally against all the procedures this government is undertaking under Bill S-4 for the reform of the Senate. The minister has a busy summer. Since he is not running for election, at least he can try to solve the problems for Quebec.

**Senator Fortier:** I thank the honourable senator for the advice, which comes from someone who represents a party whose fortunes in the polls in Quebec, and particularly in Quebec City where he is from, is in single digits. Therefore, I am a bit concerned about taking this matter under advisement.

I believe we are doing a great job. We are doing a great job in arts and culture, and the senator knows that well. The Government of Quebec has had a friend here in Ottawa for the past 18 months, whether it is the nation motion that we adopted, which he was against, whether it is a seat at United Nations Educational, Scientific and Cultural Organization, UNESCO, or whether it is the settlement of the fiscal imbalance, which he does not believe in. I think the people of Quebec recognize, and the Government of Quebec recognizes, they have a great friend here in Ottawa.

[ Senator LeBreton ]

## INTERNATIONAL TRADE

### WORLD TRADE ORGANIZATION— AGRICULTURE SUPPLY MANAGEMENT

**Hon. Leonard J. Gustafson:** Honourable senators, I have a question for the Leader of the Government in the Senate. The word is coming out of Washington, in regard to the trade situation we are facing in the global economy, that both the Democrats and the Republicans are supporting subsidies again and it looks like they will endorse subsidies for the next five years in the same manner as they are today.

• (0925)

Many of us have said that one of the biggest hurdles that we face is getting the Americans and the Europeans off of subsidies. What this means to agriculture is tremendous. I want to know if the Leader of the Government is aware of what is happening in Washington in this regard.

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for the question. I am well aware of the situation, and it is an ongoing and problematic, particularly for agricultural producers in Western Canada vis-à-vis the border states in the United States. It is a matter with which Minister Emerson is seized. It is an ongoing problem.

As the honourable senator knows, we have tried on a number of fronts to provide a better playing field for our Western farmers, particularly the grain producers, by offering marketing choice where producers can sell their own grain. I am very happy to see the barley producers are supporting the initiatives of the government.

The short answer to the question is that the government, and particularly Minister Emerson, is very concerned about this development. As to any future comments or solutions that we may have, I would be happy to ask the minister to keep the honourable senator apprised of them.

**Hon. Terry M. Mercer:** My friend and colleague, Senator Gustafson, has posed a good question. I would hope in her answer, the Leader of the Government in the Senate, again, has paid specific attention to the issues and problems of farmers in Western Canada. These are real problems. I do not want to diminish the importance or the magnitude of those problems. Senator Gustafson and I have travelled across the country together and have seen some of these problems.

I ask the Leader of the Government, again, to stop focussing on one narrow area as it pertains to agriculture. Agriculture in this country is in trouble from coast to coast to coast. The problem needs to be addressed by this government on a pan-Canadian basis and not on an isolated basis. Grain producers in Western Canada have an issue; dairy farmers in Quebec have an issue; as do farmers in the Annapolis Valley growing fruit and mixed crops.

I ask that the Leader of the Government in the Senate in addressing the issue, as she said she will, to make sure that she is addressing it on a pan-Canadian basis, not just on a Western Canadian basis.

**Senator LeBreton:** I thank the honourable senator for the question. The other day I did address these issues, particularly the issue of marketing boards. The Minister of Agriculture, Chuck Strahl, is the Minister of Agriculture for the entire country. I certainly realize that in different areas of the country there is different farming. There are unique problems with poultry and dairy farming in Eastern Canada. There are unique problems in Nova Scotia, for instance, in the apple producing sector and also with Christmas trees. Having been raised on a dairy farm in Eastern Ontario, I would not want any government to concentrate on only one aspect of the agricultural issue. The problems are unique and varied from province to province.

### THE LATE VILMA ESPÍN GUILLOIS

Leave having been given to revert to Senators' Statements:

**Hon. Anne C. Cools:** Honourable senators, I rise to pay tribute to the wife of Mr. Raúl Castro. Ms. Vilma Espín Guillois, a great and noble human being, passed away in Havana, Cuba, on Monday, June 18. She was 77 years old.

• (0930)

Vilma Espín was an independent and distinguished woman. She was one of the first Cuban women to earn a degree in chemical engineering, and she did her graduate studies at the Massachusetts Institute of Technology. In 1959, Vilma Espín was married to Raúl Castro, a minister and the brother of Cuba's President, Fidel Castro. They had four children. Raúl Castro is the Defence Minister and the Acting President of Cuba.

The daughter of a wealthy executive of the Bacardi Rum distillery, she was an early and true supporter of the 1959 Cuban Revolution. In 1960, President Fidel Castro asked her to form the Federation of Cuban Women, an organization of about 3.5 million Cuban women, which has been a force in Cuba for women. She was a political force in Cuba and had been a member of the Council of State of Cuba.

As a Caribbean woman myself, I honour this daughter of Cuba, this woman of the Caribbean, for her contribution to the advancement of women and to humanity.

Interestingly, only weeks ago, I attended the Cuban Ambassador's luncheon for two visiting Cuban women, members of the assembly, and both physicians: Dr. Pura Concepción Avilés Cruz and Dr. Danay Saavedra Hernández, and Vilma Espín's name was raised.

Vilma Espín's journey is over, her task is done. I send condolences to her family, the Acting President, Raúl Castro, to Fidel Castro, to the Government of the Republic of Cuba and to the people of Cuba, the largest island in the Caribbean. May she rest in peace and be long remembered.

### BUSINESS OF THE SENATE

**The Hon. the Speaker:** Honourable senators, it being 9:30 a.m., pursuant to the order adopted yesterday, the Leader of the Government and the Leader of the Opposition may now request

the Senate to proceed to decide on all questions necessary to dispose of any bills *seriatim* that stand on the Orders of the Day for third reading.

## ORDERS OF THE DAY

### QUARANTINE ACT

#### BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Keon, seconded by the Honourable Senator Segal, for the third reading of Bill C-42, to amend the Quarantine Act.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

### CRIMINAL CODE

#### BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Johnson, seconded by the Honourable Senator Stratton, for the third reading of Bill C-59, to amend the Criminal Code (unauthorized recording of a movie).

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read the third time and passed.

### BUDGET IMPLEMENTATION BILL, 2007

#### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Comeau, seconded by the Honourable Senator Angus, for the third reading of Bill C-52, to implement certain provisions of the budget tabled in Parliament on March 19, 2007;

And, on the motion in amendment of the Honourable Senator McCoy, seconded by the Honourable Senator Banks, that Bill C-52 be not now read a third time, but that it be amended in clause 13 by replacing line 18 on page 20 with the following:

“(a) 2017, and”;

And that Bill C-52 be not now read a third time, but that it be amended in Clause 24 by replacing line 10 on page 33 with the following:



“(a) 2017, and”;

And, on the motion in amendment of the Honourable Senator Baker, P.C., seconded by the Honourable Senator Rompkey, P.C. and the Honourable Senator Mercer, that Bill C-52 be not now read a third time but that it be amended in clause 62, on page 66, by adding after line 26 the following:

“(4) Despite any other provision of this Act, in determining under subsection (2) the reduction of the fiscal equalization payment that may be paid to Nova Scotia or the reduction of the fiscal equalization payment that may be paid to Newfoundland and Labrador for a fiscal year, there shall not be included in the computation

(a) any offshore revenue, within the meaning of section 4 — in respect of Nova Scotia — or section 18 — in respect of Newfoundland and Labrador — of the *Nova Scotia and Newfoundland and Labrador Additional Fiscal Equalization Offset Payments Act*, derived by the province in any fiscal year;

(b) any amount that may be paid to the province for that fiscal year under the *Canada-Newfoundland Atlantic Accord Implementation Act*; or

(c) any amount that may be paid to the province for that fiscal year in accordance with the provisions of the *Nova Scotia and Newfoundland and Labrador Additional Fiscal Equalization Offset Payments Act*.”;

And, on the motion in amendment of the Honourable Senator Moore, seconded by the Honourable Senator Phalen, that Bill C-52 be not now read a third time but that it be amended:

(a) by deleting clause 64, on page 84;

(b) by deleting clause 65, on page 84;

(c) in clause 68, on page 85,

(i) by replacing line 9 with the following:

“68. Paragraph 24.4(1)(a) of the Act is”, and

(ii) by replacing lines 22 to 27 with the following:

“ending on March 31, 2014; and”;

(d) by deleting clause 69, on pages 85 and 86;

(e) by deleting clause 70, on page 86; and

(f) in clause 71,

(i) on page 86, by replacing lines 27 to 34 with the following:

“71. (1) The portion of subparagraph”,

(ii) on page 87,

(A) by replacing line 9 with the following:

“(2) Paragraph 24.7(1.1)(a) of the Act is”,

(B) by replacing line 11 with the following:

“(a) for each fiscal year beginning after March 31, 2007, the equalization payment shall be the equalization payment that would be payable to the province for the fiscal year under Part I;

(a.1) for each fiscal year in the period begin-”,

(C) by replacing line 18 with the following:

“(3) Subparagraph 24.7(1.1)(b)(i) of the Act”,

(D) by replacing line 29 with the following:

“(4) Subparagraph 24.7(1.1)(b)(ii) of the”, and

(E) by deleting lines 37 to 41; and

(iii) on page 88, by deleting lines 1 to 40.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion in amendment by Senator McCoy?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** All those in favour of the motion will signify by saying “yea.”

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** All those opposed to the motion will signify by saying “nay.”

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the “nays” have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** It was agreed that the bells calling in the senators would sound for 15 minutes. I remind honourable senators that the bells will not ring for any subsequent standing votes.

Accordingly, the bells will ring until 11 minutes to 10 a.m.

Call in the senators.

• (0950)

**The Hon. the Speaker:** It is moved by the Honourable Senator McCoy, seconded by the Honourable Senator Banks, that Bill C-52 be not now read —

**Hon. Senators:** Dispense.

Motion in amendment negated on the following division:

#### YEAS THE HONOURABLE SENATORS

Baker	Hubley
Banks	McCoy
Bryden	Mercer
Callbeck	Moore
Cook	Munson
Cools	Murray
Corbin	Phalen
Cordy	Ringuette
Cowan	Robichaud
Day	Rompkey
Downe	Trenholme Counsell—23
Furey	

#### NAYS THE HONOURABLE SENATORS

Adams	Keon
Andreychuk	Kinsella
Angus	Lavigne
Campbell	LeBreton
Carstairs	Lovelace Nicholas
Chaput	Meighen
Cochrane	Milne
Comeau	Mitchell
Dallaire	Nancy Ruth
Dawson	Nolin
De Bané	Oliver
Di Nino	Peterson
Dyck	Poulin
Eggleton	Poy
Eyton	Segal
Fairbairn	Smith
Fitzpatrick	St. Germain
Fortier	Stollery
Fraser	Stratton
Gustafson	Tardif
Harb	Tkachuk
Hervieux-Payette	Watt
Jaffer	Zimmer—47
Johnson	

#### ABSTENTIONS THE HONOURABLE SENATORS

Biron	Pépin
Joyal	Spivak—4

**Hon. Wilfred P. Moore:** Honourable senators, I think I am right that the honourable Senator Eyton entered the chamber after the vote commenced and as such should not have voted.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, Senator Eyton and Senator De Bané, I believe, entered after the fact. I am unfamiliar with protocol in a case like this. Both honourable senators voted against the motion; I do not know if there is a way of deducting their votes.

**The Hon. the Speaker:** Honourable senators, because no points of order technically can be raised at this time, if the matter is not resolved at the end of this process, we can entertain a point of order at that time, if need be.

Honourable senators, the next question is the motion in amendment by the Honourable Senator Baker, PC, seconded by the Honourable Senator Rompkey, PC, that Bill C-52 be not now read a third time —

Shall I dispense?

**Hon. Senators:** Dispense.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion in amendment?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** All those in favour of the motion will signify by saying “yea.”

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** All those opposed will signify by saying “nay.”

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion the “yeas” have it.

*And two honourable senators having risen:*

Motion in amendment negated on the following division:

#### YEAS THE HONOURABLE SENATORS

Baker	Joyal
Biron	Lovelace Nicholas
Bryden	McCoy
Callbeck	Mercer
Cochrane	Moore
Cook	Munson
Corbin	Murray
Cordy	Peterson
Cowan	Phalen
Day	Ringuette
Downe	Robichaud
Dyck	Rompkey
Furey	Trenholme Counsell—27
Hubley	



• (1000)

# NAYS THE HONOURABLE SENATORS

Adams	Jaffer
Andreychuk	Johnson
Angus	Keon
Banks	Kinsella
Campbell	Lavigne
Carstairs	LeBreton
Chaput	Meighen
Comeau	Milne
Cools	Mitchell
Dallaire	Nancy Ruth
Dawson	Nolin
De Bané	Oliver
Di Nino	Poulin
Eggleton	Poy
Eyton	Segal
Fairbairn	Smith
Fitzpatrick	St. Germain
Fortier	Stollery
Fraser	Stratton
Gustafson	Tardif
Harb	Tkachuk
Hervieux-Payette	Zimmer—44

# ABSTENTIONS THE HONOURABLE SENATORS

Pépin	Watt—3
Spivak	

**The Hon. the Speaker:** Honourable senators, the question now before the house is the third amendment, by the Honourable Senator Moore, seconded by the Honourable Senator Phalen, that Bill C-52 be not now read a third time but that it be amended:

(a) by deleting clause 64, on page 84;

(b) by deleting clause 65, on page 84 —

Shall I dispense?

**Hon. Senators:** Dispense.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

**Hon. Senators:** All those in favour of the motion will signify by saying “yea.”

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** All those opposed to the motion will signify by saying “nay.”

**Some Hon. Senators:** Nay.

*And two honourable senators having risen:*

Motion in amendment negated on the following division:

# YEAS THE HONOURABLE SENATORS

Baker	Joyal
Biron	Lovelace Nicholas
Bryden	McCoy
Callbeck	Mercer
Cochrane	Moore
Cook	Munson
Corbin	Murray
Cordy	Peterson
Cowan	Phalen
Day	Ringuette
Downe	Robichaud
Dyck	Rompkey
Furey	Trenholme Counsell—27
Hubley	

# NAYS THE HONOURABLE SENATORS

Adams	Johnson
Andreychuk	Keon
Angus	Kinsella
Banks	Lavigne
Campbell	LeBreton
Carstairs	Meighen
Chaput	Milne
Comeau	Mitchell
Cools	Nancy Ruth
Dallaire	Nolin
Dawson	Oliver
De Bané	Poulin
Di Nino	Poy
Eggleton	Segal
Eyton	Smith
Fairbairn	St. Germain
Fitzpatrick	Stollery
Fortier	Stratton
Fraser	Tardif
Gustafson	Tkachuk
Harb	Watt
Hervieux-Payette	Zimmer—45
Jaffer	

# ABSTENTIONS THE HONOURABLE SENATORS

Pépin	Spivak—2
-------	----------

**The Hon. the Speaker:** Honourable senators, the question now before the house is the main motion, third reading of Bill C-52. Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** No.

**Some Hon. Senators:** Yes.

**The Hon. the Speaker:** All those in favour of the motion will signify by saying “yea.”

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** All those opposed to the motion will signify by saying "nay."

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the "yeas" have it.

*And two honourable senators having risen:*

Motion agreed to on the following division:

#### YEAS THE HONOURABLE SENATORS

Adams  
Andreychuk  
Angus  
Banks  
Campbell  
Carstairs  
Chaput  
Comeau  
Dallaire  
Dawson  
De Bané  
Di Nino  
Eggleton  
Eyton  
Fairbairn  
Fitzpatrick  
Fortier  
Fraser  
Gustafson  
Harb  
Hervieux-Payette  
Jaffer  
Johnson

Keon  
Kinsella  
Lavigne  
LeBreton  
Meighen  
Milne  
Mitchell  
Nancy Ruth  
Nolin  
Oliver  
Pépin  
Poulin  
Poy  
Segal  
Smith  
Spivak  
St. Germain  
Stollery  
Stratton  
Tardif  
Tkachuk  
Watt—45

• (1010)

#### NAYS THE HONOURABLE SENATORS

Baker  
Biron  
Bryden  
Callbeck  
Cook  
Corbin  
Cordy  
Cowan  
Downe  
Dyck  
Furey

Hubley  
Lovelace Nicholas  
Mercer  
Moore  
Peterson  
Phalen  
Ringuette  
Robichaud  
Rompkey  
Trenholme Counsell—21

#### ABSTENTIONS THE HONOURABLE SENATORS

Cochrane  
Day  
Joyal

McCoy  
Munson  
Murray—6

Motion agreed to and bill read third time and passed.

**Hon. Jim Munson:** I wish to explain briefly my reasons for abstaining on this vote. I could not say no to the budget because it represents other interests in the country, and I find it difficult to say no to the will of the House of Commons on a budget bill. However, I could not say yes to Bill C-52 because, as a Maritimer, this is an affair of the heart, and how could I say yes to something which is so unfair to Atlantic Canada?

**Hon. Lowell Murray:** Honourable senators, as you know, I voted for all of the amendments that had been proposed to this budget. I decided to abstain on the main motion because I believe it would be inappropriate for the Senate to defeat a budget bill of such scope.

**Hon. Terry M. Mercer:** Your Honour, I did want to draw your attention to an oversight on your part when you called the amendment as proposed by my colleague Senator Baker. You will recall that yesterday when Senator Baker proposed the amendment, he did indicate that there were two seconders to the motion. Although it is unusual, it was important that a Newfoundlander, Senator Rompkey, and myself as a Nova Scotian have our names attached to that motion in amendment because it is so vital to our provinces and to the Atlantic region as, once again, we are being done in by the rest of the country.

**The Hon. the Speaker:** I thank the honourable senator. Indeed, leave was granted to do that.

#### PERSONAL WATERCRAFT BILL

##### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Phalen, for the third reading of Bill S-209, concerning personal watercraft in navigable waters.—(*Honourable Senator Comeau*)

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**An Hon. Senator:** On division.

Motion agreed to, on division, and bill read third time and passed.

#### KYOTO PROTOCOL IMPLEMENTATION BILL

##### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Trenholme Counsell, for the third reading of Bill C-288, to ensure Canada meets its global climate change obligations under the Kyoto Protocol;

And on the motion in amendment of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Spivak, that Bill C-288 be not now read a third time but that



it be amended, on page 10, by adding after line 33 the following:

**"COMING INTO FORCE**

**12.** This Act comes into force on a day to be fixed by order of the Governor in Council."—(*Honourable Senator Carstairs, P.C.*)

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion in amendment?

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** All those in favour of the motion in amendment will please say "yea."

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** All those opposed to the motion in amendment will please say "nay."

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the "nays" have it.

*And two honourable senators having risen:*

Motion in amendment negated on the following division:

**YEAS**

**THE HONOURABLE SENATORS**

Andreychuk  
Angus  
Cochrane  
Comeau  
Di Nino  
Eyton  
Fortier  
Gustafson  
Johnson  
Keon

LeBreton  
Meighen  
Murray  
Nancy Ruth  
Nolin  
Oliver  
Segal  
St. Germain  
Stratton  
Tkachuk—20

**NAYS**

**THE HONOURABLE SENATORS**

Adams  
Baker  
Banks  
Biron  
Bryden  
Callbeck  
Campbell  
Carstairs  
Chaput  
Cook  
Cools  
Corbin  
Cordy  
Cowan  
Dallaire  
Dawson

Hubley  
Jaffer  
Joyal  
Lavigne  
Lovelace Nicholas  
McCoy  
Mercer  
Milne  
Mitchell  
Moore  
Munson  
Pépin  
Peterson  
Phalen  
Poulin  
Poy

Day  
De Bané  
Downe  
Dyck  
Eggleton  
Fairbairn  
Fitzpatrick  
Fraser  
Furey  
Harb  
Hervieux-Payette

Ringuette  
Robichaud  
Rompkey  
Smith  
Spivak  
Stollery  
Tardif  
Trenholme Counsell  
Watt  
Zimmer—53

**ABSTENTIONS  
THE HONOURABLE SENATORS**

Nil

• (1020)

**The Hon. the Speaker:** Honourable senators, I will put the main motion:

It was moved by the Honourable Senator Mitchell, seconded by the Honourable Senator Trenholme Counsell, that Bill C-288 be read the third time. Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** Would those honourable senators in favour of the motion please say "yea."

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Would those honourable senators opposed to the motion please say "nay."

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the "yeas" have it.

*And two honourable senators having risen:*

Motion agreed to and bill read third time and passed on the following division:

**YEAS**

**THE HONOURABLE SENATORS**

Adams  
Baker  
Banks  
Biron  
Bryden  
Callbeck  
Campbell  
Carstairs  
Chaput  
Cook  
Cools  
Corbin  
Cordy  
Cowan  
Dallaire

Hubley  
Jaffer  
Joyal  
Lavigne  
Lovelace Nicholas  
McCoy  
Mercer  
Milne  
Mitchell  
Moore  
Munson  
Pépin  
Peterson  
Phalen  
Poulin

Dawson  
Day  
De Bané  
Downe  
Dyck  
Eggleton  
Fairbairn  
Fitzpatrick  
Fraser  
Furey  
Harb  
Hervieux-Payette

Poy  
Ringuette  
Robichaud  
Rompkey  
Smith  
Spivak  
Stollery  
Tardif  
Trenholme Counsell  
Watt  
Zimmer—53

#### NAYS THE HONOURABLE SENATORS

Andreychuk  
Angus  
Cochrane  
Comeau  
Di Nino  
Eyton  
Fortier  
Gustafson  
Johnson  
Keon

LeBreton  
Meighen  
Murray  
Nancy Ruth  
Nolin  
Oliver  
Segal  
St. Germain  
Stratton  
Tkachuk—20

#### ABSTENTIONS THE HONOURABLE SENATORS

Nil

[Translation]

#### ANSWER TO ORDER PAPER QUESTION TABLED

##### HEALTH CANADA—EXPOSURE TO PESTICIDES

Leave having been given to revert to Delayed Answers:

**Hon. Gerald J. Comeau (Deputy Leader of the Government)** tabled the answer to Question No. 31 on the Order Paper—by Senator Downe.

[English]

#### CRIMINAL CODE

##### BILL TO AMEND—REPORT OF COMMITTEE

**Hon. A. Raynell Andreychuk**, Chair of the Standing Senate Committee on Human Rights, presented the following report:

Friday, June 22, 2007

The Standing Senate Committee on Human Rights has the honour to present its

#### THIRTEENTH REPORT

Your Committee, to which was referred Bill S-207, An Act to amend the Criminal Code (protection of children), has, in obedience to the Order of Reference of Thursday,

December 14, 2006, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

A. RAYNELL ANDREYCHUK  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Andreychuk, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (1030)

#### STUDY ON ISSUES RELATING TO FISCAL BALANCES AMONG ORDERS OF GOVERNMENT BUDGET

##### SECOND INTERIM REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to proceed consideration of the seventeenth report (second interim) of the Standing Senate Committee on National Finance, entitled: *The Vertical and Municipal Fiscal Balances*, tabled in the Senate on June 21, 2007.—(*Honourable Senator Day*)

**Hon. Joseph A. Day:** Honourable senators, I wish to move the adoption of this report standing in my name. We have had extensive discussion on this issue. It is reflective of the other points we have discussed and I do not believe there is a need for further debate.

**The Hon. the Speaker:** Are senators ready for the question?

**Some Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

#### INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

##### SIXTEENTH REPORT OF COMMITTEE— DEBATE CONTINUED

On the Order:

Resuming debate on the consideration of the sixteenth report of the Standing Committee on Internal Economy, Budgets and Administration, (conduct of staff), tabled in the Senate on May 10, 2007.—(*Honourable Senator Tardif*)

**Hon. Anne C. Cools:** Honourable senators, I rise to speak to this sixteenth report of the Standing Committee on Internal Economy, Budgets and Administration about the conduct of Jeffrey Kroeker, a staffer in the Senate government leader's office.

Honourable senators, Mr. Kroeker, is a bright young man in his twenties. He is a zealous young man imbued with a strong sense of the commitment to his causes. The committee's report, as



does the record here, speaks to that commitment and will continue to speak for a long time into the future of Jeffrey Kroeker's life.

Honourable senators, I would like to describe my Senate experience with him. He was a diligent worker in the office of Senator Marjory LeBreton, the Leader of the Government in the Senate. My own personal senatorial experiences with Jeffrey Kroeker are sharply different from anything that has been put on the record in this house about him. I shall relate them.

My experiences with him are decidedly different. I found him a most pleasant and cooperative person. He was obliging. He was always ready and willing to assist, whenever asked. He was responsive and energetic, never needing to be pushed or prompted to work. His level of initiative was high and keen.

Honourable senators, Mr. Kroeker is undoubtedly deeply hurt and terribly damaged. His name has been splashed across the debates here, and his name and actions are carved in stone for eternity in the Hansard and sessional papers of this place.

Honourable senators, Jeffrey Kroeker is a casualty of his causes and of those he served. He is a casualty of the government and its distasteful strategies for dealing with those with whom it disagrees. The government has adopted certain undesirable human responses, mainly smearing, maligning and discrediting, and has institutionalized them. The government has institutionalized these undesirable human responses and has operationalized these human failings in its communications strategies and in its modus operandi so as to damage those with whom the government disagrees, in particular, the Senate and some senators.

It appears to me that the government seeks not to defeat the Liberal Party but to annihilate it; and seeks not to reform the Senate, but to destroy it, and, in the meantime, to cast the Senate into a state of public disapprobation, to undermine its credibility and to discredit it. These twisted strategies are something of a new pathology that has crept into the body politic. I find them to be deeply disturbing.

Senators know how shocked I was when Prime Minister Stephen Harper and Senator LeBreton held a joint press conference outside the Senate's door on December 14, 2006, while the Senate was sitting and while the mace, the symbol of Her Majesty and Parliament's authority, was on the table.

This display, honourable senators, was a terrible affront to both Her Majesty and the Senate. Honourable senators, if you were raised like I was, that symbol is a powerful symbol. To my mind, it is sacrilegious to violate it.

The Prime Minister stood outside here and said the following:

I wake up every day and the Senate bothers me. I curse the Senate.

Honourable senators, Jeffrey Kroeker, always zealous to serve, adopted, imitated and followed many of these strategies utilized by many supporters and many government leaders. He deployed some of those strategies, with terrible consequences to himself. Honourable senators, in these circumstances involving and surrounding Mr. Kroeker, the proper constitutional response of the government, particularly the government leader here, Senator

Marjory LeBreton, should have been that she take responsibility for her office and Mr. Kroeker's actions therein. This is the meaning and the specified practice of responsible government and ministerial responsibility. Responsible government means that a minister of Her Majesty must take responsibility for any and all actions of all persons in his or her offices and within his or her administration, whether or not that particular minister had knowledge of any or all the actions of those persons. Ignorance is no excuse from ministerial responsibility or from the responsibility of the preferment that is granted to any minister by Her Majesty. It cannot be suspended. Ministerial responsibility is an abiding, permanent and uncontroverted notion, binding on every minister at all times. Honourable senators, that is what we must understand.

Honourable senators, on July 20, 1954, Prime Minister Winston Churchill's agriculture minister, Sir Thomas Dugdale, renewed and affirmed the principle of ministerial responsibility for his office. He offered his resignation, even though he had no knowledge of the wrong that was done in his department. Responsible government dictates that ministers are responsible for all activities in their offices and under their administration, performed rightly or wrongly by their subordinates and personnel.

Honourable senators, this sad and bad situation with Mr. Kroeker followed the course it did because the responsible minister declined to do the correct constitutional thing, which was to take responsibility for her subordinate's action, even unto offering her resignation as minister, and therein to place her trust and confidence in the Prime Minister's judgment as to whether he would accept or reject her resignation. These relationships are supposed to be relationships of trust, honourable senators. Every minister has a duty to offer a resignation and then put their fate before the king's mercy.

• (1040)

This situation, honourable senators, has been terrible and has been the cause of this unhappy set of circumstances involving this eager young man.

Honourable senators, leaders are responsible for their followers and for their staff. I record here Prime Minister Winston Churchill's words about Sir Thomas Dugdale's resignation. Mr. Churchill wrote the following on July 3, 1954:

If as now appears, the Cabinet feel no further action, punitive or other, should be taken in relation to civil servants whose conduct is the cause of so much public wrath, we rest on the fact that the Minister has declared that he himself will bear the whole responsibility. This is a high and dignified line for him to take.

I thank honourable senators for this. I just wanted to put those words, because the incident involving this young man has been very bothersome to me, and I hope no other staffer in the course of the history of this place will ever find himself or herself in a similar set of circumstances.

Honourable senators, much of this could have been avoided. I believe Senator Carstairs said some time ago that apologies go a long way. I do not think this young man understands the depth of what has happened, and I have no doubt that the records here will follow him for a long time. The notion of responsibility is one that must be adhered to.

Honourable senators, I should like to make it clear that I do not and have never approved of Mr. Kroeker's actions. As a matter of fact, it broke my heart. I condemn them, but the purpose of my intervention here today is in the nature of a plea for mercy. My purpose is to plead with senators, particularly those personally injured, to let the matter rest. I would ask all those senators and all the senators here to take no further legal action and to pursue the matter no further against Mr. Kroeker. I would submit that the committee's report is sufficient, and, honourable senators, we should now consider the matter closed.

On motion of Senator Day, debate adjourned.

### THE SENATE

#### MOTION URGING GOVERNOR GENERAL TO FILL VACANCIES IN SENATE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Phalen:

That an humble Address be presented to Her Excellency the Governor General praying that she will fill the vacancies in the Senate by summons to fit and qualified persons.—(*Honourable Senator Carstairs, P.C.*)

**Hon. Sharon Carstairs:** Honourable senators, I took the adjournment on this motion last night. It is a very serious motion. It is an address to the Governor General. However, I have not had time to prepare remarks. Given that this motion is not simple, some research into this matter is required. Therefore, honourable senators, I beg your approval of allowing me to adjourn this debate.

**The Hon. the Speaker:** Honourable senators, is it agreed the matter continue to stand in the name of Senator Carstairs?

**Some Hon. Senators:** Agreed.

**An Hon. Senator:** On division.

On motion of Senator Carstairs, debate adjourned, on division.

#### MOTION URGING GOVERNMENT TO ENGAGE IN FREE TRADE NEGOTIATIONS WITH EUROPEAN UNION—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Segal, seconded by the Honourable Senator Keon:

That the Senate call upon the Government of Canada to engage in negotiations with the European Union towards a free trade agreement, in order to encourage investment and free movement of people and capital.—(*Honourable Senator Di Nino*)

**Hon. Consiglio Di Nino:** Honourable senators, I have had for the last couple of weeks some notes that I prepared to speak on this motion; however, as honourable senators know, this has been

a rather busy time, and I have not had the opportunity. Looking at the time today, I would ask that honourable senators allow me to adjourn the motion and restart the clock.

**The Hon. the Speaker:** It as agreed that this item continue to stand in the name of Senator Di Nino?

**Hon. Senators:** Agreed.

Order stands.

### KYOTO PROTOCOL IMPLEMENTATION BILL

#### NOTICE OF MOTION FOR TIME ALLOCATION WITHDRAWN

On Motion No. 191, by Senator Carstairs:

That it be an Order of the Senate that on the first sitting day following the adoption of this motion, at 3:00 p.m., the Speaker shall interrupt any proceedings then underway; and all questions necessary to dispose of third reading of Bill C-288, An Act to ensure Canada meets its global climate change obligations under the Kyoto Protocol, shall be put forthwith without further adjournment, debate or amendment; and that any vote to dispose of Bill C-288 shall not be deferred; and

That, if a standing vote is requested, the bells to call in the Senators be sounded for thirty minutes, after which the Senate shall proceed to take each vote successively as required without the further ringing of the bells.

**Hon. Sharon Carstairs:** Honourable senators, given that this matter has been dealt with, I would ask for leave from the chamber to remove it from the Order Paper.

**The Hon. the Speaker:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** So ordered.

Notice of motion withdrawn.

### NATIONAL FINANCE

#### COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES RELATING TO FISCAL BALANCES AMONG ORDERS OF GOVERNMENT

**Hon. Joseph A. Day,** pursuant to notice of June 21, 2007, moved:

That, notwithstanding the Order of the Senate adopted on Wednesday, September 27, 2006, that the Standing Senate Committee on National Finance authorized to examine and report on issues relating to the vertical and horizontal fiscal balances among the various orders of government in Canada, be empowered to extend the date of presenting its final report from June 30, 2007 to December 31, 2007; and



That the Committee retain until February 15, 2008 all powers necessary to publicize its findings.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

**The Hon. the Speaker:** Honourable senators, is it your pleasure that the Senate do now adjourn during pleasure to await the arrival of Her Excellency the Governor General?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Honourable senators, the bells will sound at 15 minutes before twelve o'clock, that being the time Her Excellency will proceed to the Senate chamber.

### ADJOURNMENT

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, earlier this morning, I tried to move a motion, with consent, of course, that the Senate do adjourn to a later date than Monday. If I do not get consent to that motion, to adjourn until September 18, 2007, we would then have to sit at two o'clock this coming Monday. The Rules of the Senate require that we sit five days a week. There are no holidays for the Senate.

Therefore, I would ask again if I could have leave, that, with permission of the Senate and notwithstanding rule 58(1)(h), when I move the adjournment motion today the Senate do stand adjourned until Tuesday, September 18, 2007 at 2 p.m.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**Senator Comeau:** Honourable senators, I so move.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

**The Hon. the Speaker:** We stand adjourned at pleasure awaiting the arrival of Her Excellency, the Governor General.

The Senate adjourned during pleasure.

[Translation]

### ROYAL ASSENT

Her Excellency the Governor General of Canada having come and being seated on the Throne, and the House of Commons having been summoned, and being come with their Speaker, Her Excellency the Governor General was pleased to give the Royal Assent to the following bills:

An Act to provide for emergency management and to amend and repeal certain Acts (*Bill C-12, Chapter 15, 2007*)

An Act to amend the Income Tax Act (sports and recreation programs) (*Bill C-294, Chapter 16, 2007*)

An Act to amend the First Nations Land Management Act (*Bill S-6, Chapter 17, 2007*)

An Act to amend the Excise Tax Act, the Excise Act, 2001 and the Air Travellers Security Charge Act and to make related amendments to other Acts (*Bill C-40, Chapter 18, 2007*)

An Act to amend the Canada Transportation Act and the Railway Safety Act and to make consequential amendments to other Acts (*Bill C-11, Chapter 19, 2007*)

An Act to amend the Criminal Code (luring a child) (*Bill C-277, Chapter 20, 2007*)

An Act to amend the Canada Elections Act and the Public Service Employment Act (*Bill C-31, Chapter 21, 2007*)

An Act to amend certain Acts in relation to DNA identification (*Bill C-18, Chapter 22, 2007*)

An Act to amend the Citizenship Act (adoption) (*Bill C-14, Chapter 24, 2007*)

An Act respecting the protection of marks related to the Olympic Games and the Paralympic Games and protection against certain misleading business associations and making a related amendment to the Trade-marks Act (*Bill C-47, Chapter 25, 2007*)

An Act to amend the Geneva Conventions Act, An Act to incorporate the Canadian Red Cross Society and the Trade-marks Act (*Bill C-61, Chapter 26, 2007*)

An Act to amend the Quarantine Act (*Bill C-42, Chapter 27, 2007*)

An Act to amend the Criminal Code (unauthorized recording of a movie) (*Bill C-59, Chapter 28, 2007*)

An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2007 (*Bill C-52, Chapter 29, 2007*)

An Act to ensure Canada meets its global climate change obligations under the Kyoto Protocol (*Bill C-288, Chapter 30, 2007*)

The Honourable Peter Milliken, Speaker of the House of Commons, then addressed her Excellency the Governor General as follows:

May it please Your Excellency.

The Commons of Canada have voted certain supplies required to enable the Government to defray the expenses of the public service.

In the name of the Commons, I present to Your Honour the following bill:

[ Senator Day ]

An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2008 (*Bill C-60, Chapter 23, 2007*)

• (1220)

[*English*]

To which bill I humbly request Your Excellency's assent.

The Honourable the Governor General was pleased to give the Royal Assent to the said bill.

The House of Commons withdrew.

The Honourable the Governor General was pleased to retire.

---

The sitting was resumed.

#### BUSINESS OF THE SENATE

**Hon. Tommy Banks:** Honourable senators, I seek instruction. This morning in this place we passed, at third reading, Bill S-209, and I note that it was not included in those bills to which Royal Assent has just now been given. I seek an explanation.

**Senator Fraser:** It was included.

**Senator Tkachuk:** It has to go to the House of Commons.

The Senate adjourned until Tuesday, September 18, 2007, at 2 p.m.

---



## THE SENATE OF CANADA

## PROGRESS OF LEGISLATION

(indicates the status of a bill by showing the date on which each stage has been completed)

(1st Session, 39th Parliament)

Friday, June 22, 2007

(\*Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Houses of Parliament have been notified of the declaration.)

GOVERNMENT BILLS  
(SENATE)

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-2	An Act to amend the Hazardous Materials Information Review Act	06/04/25	06/05/04	Social Affairs, Science and Technology	06/05/18	0	06/05/30	07/03/29	7/07
S-3	An Act to amend the National Defence Act, the Criminal Code, the Sex Offender Information Registration Act and the Criminal Records Act	06/04/25	06/06/22	Legal and Constitutional Affairs	06/12/06	0 observations + 1 at 3rd	07/02/15	07/03/29	5/07
S-4	An Act to amend the Constitution Act, 1867 (Senate tenure)	06/05/30	07/02/20	(subject-matter 06/06/28 Special Committee on Senate Reform)	Report on subject-matter 06/10/26	2 amends 1 recom. observations			
				Bill 07/02/20 Legal and Constitutional Affairs	Report on bill 07/06/12				
S-5	An Act to implement conventions and protocols concluded between Canada and Finland, Mexico and Korea for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	06/10/03	06/10/31	Banking, Trade and Commerce	06/11/09	0	06/11/23	06/12/12	8/06
S-6	An Act to amend the First Nations Land Management Act	07/04/25	07/05/15	Aboriginal Peoples	07/05/31	0	07/05/31	07/06/22	17/07

**GOVERNMENT BILLS  
(HOUSE OF COMMONS)**

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-2	An Act providing for conflict of interest rules, restrictions on election financing and measures respecting administrative transparency, oversight and accountability	06/06/22	06/06/27	Legal and Constitutional Affairs	06/10/26 Report amended 06/11/06	156 + Observations 3 at 3 <sup>rd</sup> (including 1 amend. to report) 06/11/09 Total 158	06/11/09 Message from Commons- agree with 52 amendments, disagree with 102, agree and disagree with 1, and amend 3 06/11/21  Referred to committee 06/11/23  Report adopted 06/12/07  Message from Commons- agree with Senate amendments 06/12/11	06/12/12	9/06
C-3	An Act respecting international bridges and tunnels and making a consequential amendment to another Act	06/06/22	06/10/24	Transport and Communications	06/12/12	3 observations	06/12/13 Message from Commons- agree with Senate amendments 07/01/30	07/02/01*	1/07
C-4	An Act to amend An Act to amend the Canada Elections Act and the Income Tax Act	06/05/02	06/05/03	Legal and Constitutional Affairs	06/05/04	0	06/05/09	06/05/11	1/06
C-5	An Act respecting the establishment of the Public Health Agency of Canada and amending certain Acts	06/06/20	06/09/28	Social Affairs, Science and Technology	06/11/02	0 observations	06/11/03	06/12/12	5/06
C-8	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2007 ( <i>Appropriation Act No. 1, 2006-2007</i> )	06/05/04	06/05/09	—	—	—	06/05/10	06/05/11	2/06
C-9	An Act to amend the Criminal Code (conditional sentence of imprisonment)	06/11/06	07/02/27	Legal and Constitutional Affairs	07/05/03	0 observations	07/05/16	07/05/31*	12/07



No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-10	An Act to amend the Criminal Code (minimum penalties for offences involving firearms) and to make a consequential amendment to another Act	07/05/30							
C-11	An Act to amend the Canada Transportation Act and the Railway Safety Act and to make consequential amendments to other Acts	07/03/01	07/03/28	Transport and Communications	07/05/17 Report amended 07/05/30	2 observations	07/05/31 Message from Commons-Senate amendments 07/06/14	07/06/22	19/07
C-12	An Act to provide for emergency management and to amend and repeal certain Acts	06/12/11	07/03/28	Special Committee on the Anti-terrorism Act	07/06/05	0	07/06/06	07/06/22	15/07
C-13	An Act to implement certain provisions of the budget tabled in Parliament on May 2, 2006	06/06/06	06/06/13	National Finance	06/06/20	0	06/06/22	06/06/22*	4/06
C-14	An Act to amend the Citizenship Act (adoption)	07/06/05	07/06/19	Social Affairs, Science and Technology	07/06/21	0	07/06/21	07/06/22	24/07
C-15	An Act to amend the Agricultural Marketing Programs Act	06/06/06	06/06/13	Agriculture and Forestry	06/06/15	0	06/06/20	06/06/22*	3/06
C-16	An Act to amend the Canada Elections Act	06/11/06	06/11/23	Legal and Constitutional Affairs	07/02/15	0 + 1 at 3rd	07/03/28 Message from Commons disagreeing with Senate amendment 07/04/27  Senate does not insist on its amendment 07/05/01	07/05/03*	10/07
C-17	An Act to amend the Judges Act and certain other Acts in relation to courts	06/11/21	06/12/11	National Finance	06/12/12	0 observations	06/12/13	06/12/14*	11/06
C-18	An Act to amend certain Acts in relation to DNA identification	07/03/29	07/05/09	Legal and Constitutional Affairs	07/06/14	0 observations	07/06/19	07/06/22	22/07
C-19	An Act to amend the Criminal Code (street racing) and to make a consequential amendment to the Corrections and Conditional Release Act	06/11/02	06/11/21	Legal and Constitutional Affairs	06/12/14	0 observations	06/12/14	06/12/14*	14/06
C-22	An Act to amend the Criminal Code (age of protection) and to make consequential amendments to the Criminal Records Act	07/05/08	07/06/20	Legal and Constitutional Affairs					

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-23	An Act to amend the Criminal Code (criminal procedure, language of the accused, sentencing and other amendments)	07/06/14							
C-24	An Act to impose a charge on the export of certain softwood lumber products to the United States and a charge on refunds of certain duty deposits paid to the United States, to authorize certain payments, to amend the Export and Import Permits Act and to amend other Acts as a consequence	06/12/06	06/12/12	National Finance (withdrawn) 06/12/13 Foreign Affairs and International Trade	06/12/14	0 observations	06/12/14	06/12/14*	13/06
C-25	An Act to amend the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and the Income Tax Act and to make a consequential amendment to another Act	06/11/21	06/11/28	Banking, Trade and Commerce	06/12/14	0 observations	06/12/14	06/12/14*	12/06
C-26	An Act to amend the Criminal Code (criminal interest rate)	07/02/07	07/02/28	Banking, Trade and Commerce	07/04/19	0 observations	07/04/26	07/05/03*	9/07
C-28	A second Act to implement certain provisions of the budget tabled in Parliament on May 2, 2006	06/12/11	07/01/31	National Finance	07/02/13	0	07/02/14	07/02/21*	2/07
C-31	An Act to amend the Canada Elections Act and the Public Service Employment Act	07/02/21	07/03/21	Legal and Constitutional Affairs	07/06/05 Report amended 07/06/12	10 + 2 at 3rd	07/06/14 Message from Commons- agree with 11 amendments and amend 1 07/06/18 Senate agree with Commons amendment 07/06/19	07/06/22	21/07
C-33	An Act to amend the Income Tax Act, including amendments in relation to foreign investment entities and non-resident trusts, and to provide for the bilingual expression of the provisions of that Act	07/06/18							
C-34	An Act to provide for jurisdiction over education on First Nation lands in British Columbia	06/12/06	06/12/11	Aboriginal Peoples	06/12/12	0	06/12/12	06/12/12	10/06
C-35	An Act to amend the Criminal Code (reverse onus in bail hearings for firearm-related offences)	07/06/05							
C-36	An Act to amend the Canada Pension Plan and the Old Age Security Act	07/03/20	07/04/17	Banking, Trade and Commerce	07/04/19	0	07/05/01	07/05/03*	11/07
C-37	An Act to amend the law governing financial institutions and to provide for related and consequential matters	07/02/28	07/03/21	Banking, Trade and Commerce	07/03/29	0	07/03/29	07/03/29	6/07



No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-38	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007 ( <i>Appropriation Act No.2, 2006-2007</i> )	06/11/29	06/12/05	—	—	—	06/12/06	06/12/12	6/06
C-39	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007 ( <i>Appropriation Act No.3, 2006-2007</i> )	06/11/29	06/12/05	—	—	—	06/12/06	06/12/12	7/06
C-40	An Act to amend the Excise Tax Act, the Excise Act, 2001 and the Air Travellers Security Charge Act and to make related amendments to other Acts	07/05/15	07/06/05	Banking, Trade and Commerce	07/06/07	0	07/06/14	07/06/22	18/07
C-42	An Act to amend the Quarantine Act	07/06/18	07/06/18	Social Affairs, Science and Technology	07/06/21	0	07/06/22	07/06/22	27/07
C-46	An Act to provide for the resumption and continuation of railway operations	07/04/18	07/04/18	Committee of the Whole	07/04/18	0	07/04/18	07/04/18*	8/07
C-47	An Act respecting the protection of marks related to the Olympic Games and the Paralympic Games and protection against certain misleading business associations and making a related amendment to the Trade-marks Act	07/06/14	07/06/19	Banking, Trade and Commerce	07/06/21	0	07/06/21	07/06/22	25/07
C-48	An Act to amend the Criminal Code in order to implement the United Nations Convention against Corruption	07/05/01	07/05/10	Foreign Affairs and International Trade	07/05/17	0	07/05/29	07/05/31*	13/07
C-49	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007 ( <i>Appropriation Act No.4, 2006-2007</i> )	07/03/26	07/03/27	—	—	—	07/03/28	07/03/29	3/07
C-50	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2008 ( <i>Appropriation Act No.1, 2007-2008</i> )	07/03/26	07/03/27	—	—	—	07/03/28	07/03/29	4/07
C-51	An Act to give effect to the Nunavik Inuit Land Claims Agreement and to make a consequential amendment to another Act	07/06/14	07/06/21	Legal and Constitutional Affairs					
C-52	An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2007	07/06/13	07/06/18	National Finance	07/06/21	0	07/06/22	07/06/22	29/07
C-59	An Act to amend the Criminal Code (unauthorized recording of a movie)	07/06/14	07/06/18	Transport and Communications	07/06/21	0	07/06/22	07/06/22	28/07
C-60	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2008 ( <i>Appropriation Act No.2, 2007-2008</i> )	07/06/12	07/06/18	—	—	—	07/06/20	07/06/22	23/07

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-61	An Act to amend the Geneva Conventions Act, An Act to incorporate the Canadian Red Cross Society and the Trade-marks Act	07/06/13	07/06/18	Foreign Affairs and International Trade	07/06/21	0	07/06/21	07/06/22	26/07
C-62	An Act to amend the Bankruptcy and Insolvency Act, the Companies' Creditors Arrangement Act, the Wage Earner Protection Program Act and chapter 47 of the Statutes of Canada, 2005	07/06/14							

## COMMONS PUBLIC BILLS

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-252	An Act to amend the Divorce Act (access for spouse who is terminally ill or in critical condition)	07/03/22	07/04/19	Social Affairs, Science and Technology	07/05/10	0	07/05/29	07/05/31*	14/07
C-277	An Act to amend the Criminal Code (luring a child)	07/03/29	07/05/10	Social Affairs, Science and Technology	07/05/31	0	07/06/14	07/06/22	20/07
C-280	An Act to Amend the Immigration and Refugee Protection Act (coming into force of sections 110, 111 and 171)	07/05/30							
C-288	An Act to ensure Canada meets its global climate change obligations under the Kyoto Protocol	07/02/15	07/03/29	Energy, the Environment and Natural Resources	07/05/17	0	07/06/22	07/06/22	30/07
C-292	An Act to implement the Kelowna Accord	07/03/22	07/06/06	Aboriginal Peoples					
C-293	An Act respecting the provision of official development assistance abroad	07/03/29	07/05/29	Foreign Affairs and International Trade					
C-294	An Act to amend the Income Tax Act (sports and recreation programs)	07/04/17	07/05/02	National Finance	07/06/06	0	07/06/12	07/06/22	16/07
C-299	An Act to amend the Criminal Code (identification information obtained by fraud or false pretence)	07/05/09							

## SENATE PUBLIC BILLS

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-201	An Act to amend the Public Service Employment Act (elimination of bureaucratic patronage and geographic criteria in appointment processes) (Sen. Ringuette)	06/04/05	06/06/22	National Finance	06/10/03	1	07/05/10		
S-202	An Act to repeal legislation that has not come into force within ten years of receiving royal assent (Sen. Banks)	06/04/05	06/05/31	Legal and Constitutional Affairs	06/06/15	1	06/06/22		
S-203	An Act to amend the Public Service Employment Act (priority for appointment for veterans) (Sen. Downe)	06/04/05	Dropped from the Order Paper pursuant to Rule 27(3) 06/06/08						



No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-204	An Act respecting a National Philanthropy Day (Sen. Grafstein)	06/04/05	07/05/29	Legal and Constitutional Affairs					
S-205	An Act to amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	06/04/05	06/10/31	Energy, the Environment and Natural Resources	07/02/14	0	07/04/25		
S-206	An Act to amend the Criminal Code (suicide bombings) (Sen. Grafstein)	06/04/05	06/10/31	Legal and Constitutional Affairs					
S-207	An Act to amend the Criminal Code (protection of children) (Sen. Herveux-Payette, P.C.)	06/04/05	06/12/14	Human Rights	07/06/22	0			
S-208	An Act to require the Minister of the Environment to establish, in co-operation with the provinces, an agency with the power to identify and protect Canada's watersheds that will constitute sources of drinking water in the future (Sen. Grafstein)	06/04/06		subject-matter 07/06/19 Energy, the Environment and Natural Resources					
S-209	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	06/04/25	06/12/14	Energy, the Environment and Natural Resources	07/05/31	0	07/06/22		
S-210	An Act to amend the National Capital Act (establishment and protection of Gatineau Park) (Sen. Spivak)	06/04/25	06/12/13	Energy, the Environment and Natural Resources	07/06/07	2 observations			
S-211	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	06/04/25	06/05/10	Social Affairs, Science and Technology	06/06/13	0	06/10/17		
S-212	An Act to amend the Income Tax Act (tax relief) (Sen. Austin, P.C.)	06/04/26	Bill withdrawn pursuant to Speaker's Ruling 06/05/11						
S-213	An Act to amend the Criminal Code (cruelty to animals) (Sen. Bryden)	06/04/26	06/09/26	Legal and Constitutional Affairs	06/12/06	1	06/12/07		
S-214	An Act respecting a National Blood Donor Week (Sen. Mercer)	06/05/17	06/10/03	Social Affairs, Science and Technology	06/12/14	0	06/12/14		
S-215	An Act to amend the Income Tax Act in order to provide tax relief (Sen. Austin, P.C.)	06/05/17	07/02/20	National Finance					
S-216	An Act providing for the Crown's recognition of self-governing First Nations of Canada (Sen. St. Germain, P.C.)	06/05/30	06/12/13	Aboriginal Peoples					
S-217	An Act to amend the Financial Administration Act and the Bank of Canada Act (quarterly financial reports) (Sen. Segal)	06/05/30	06/10/18	National Finance					
S-218	An Act to amend the State Immunity Act and the Criminal Code (civil remedies for victims of terrorism) (Sen. Tkachuk)	06/06/15	06/11/02	Legal and Constitutional Affairs					
S-219	An Act to amend the Parliamentary Employment and Staff Relations Act (Sen. Joyal, P.C.)	06/06/27	07/05/31	Rules, Procedures and the Rights of Parliament					
S-220	An Act to protect heritage lighthouses (Sen. Carney, P.C.)	06/10/03	06/11/28	Fisheries and Oceans	06/12/11	16	06/12/14		

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-221	An Act to establish and maintain a national registry of medical devices (Sen. Harb)	06/11/01							
S-222	An Act to amend the Immigration and Refugee Protection Act and to enact certain other measures, in order to provide assistance and protection to victims of human trafficking (Sen. Phalen)	07/02/01							
S-223	An Act to amend the Access to Information Act (Sen. Mline)	07/02/15							
S-224	An Act to amend the Access to Information Act and the Canadian Wheat Board Act (Sen. Mitchell)	07/04/17							
S-225	An Act to amend the International Boundary Waters Treaty Act (bulk water removal) (Sen. Carney, P.C.)	07/05/09							
S-226	An Act to regulate securities and to provide for a single securities commission for Canada (Sen. Graftstein)	07/05/29							
S-227	An Act to amend the Bankruptcy and Insolvency Act (student loans) (Sen. Goldstein)	07/05/29							
S-228	An Act to amend the Non-smokers' Health Act (Sen. Harb)	07/05/30							
S-229	An Act to amend the Income Tax Act and the Excise Tax Act (tax relief for Nunavik) (Sen. Watt)	07/06/13							
<b>PRIVATE BILLS</b>									
No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-1001	An Act respecting Scouts Canada (Sen. Di Nino)	06/06/27	06/10/26	Legal and Constitutional Affairs	06/12/06	0	06/12/07	07/02/21*	



# CONTENTS

Friday, June 22, 2007

PAGE

PAGE

## Royal Assent

Notice.  
The Hon. the Speaker. . . . . 2877

## SENATOR'S STATEMENT

**National Aboriginal Day**  
Hon. Lillian Eva Dyck . . . . . 2877

## ROUTINE PROCEEDINGS

**Adjournment**  
Notice of Motion.  
Hon. Gerald J. Comeau . . . . . 2877

## QUESTION PERIOD

**Business of the Senate**  
Hon. Wilfred P. Moore. . . . . 2878  
Hon. Marjory LeBreton . . . . . 2878  
Hon. Sharon Carstairs . . . . . 2878

**Public Works and Government Services**  
Parliament Hill—Replacement of Light Bulbs.  
Hon. Terry M. Mercer . . . . . 2878  
Hon. Michael Fortier . . . . . 2878  
Issuance of Sole Source Contracts.  
Hon. Terry M. Mercer . . . . . 2878  
Hon. Michael Fortier . . . . . 2878  
Reserves—Job Protection While in Service—Contract Compliance.  
Hon. Hugh Segal . . . . . 2879  
Hon. Michael Fortier . . . . . 2879  
Cost of Regional Diversification.  
Hon. Roméo Antonius Dallaire. . . . . 2879  
Hon. Michael Fortier . . . . . 2879

**Finance**  
Parliamentary Budget Officer.  
Hon. Joseph A. Day. . . . . 2879  
Hon. Marjory LeBreton . . . . . 2879

**Public Works and Government Services**  
Opportunities for Minister to Run in By-elections.  
Hon. Dennis Dawson . . . . . 2880  
Hon. Michael Fortier . . . . . 2880

**International Trade**  
World Trade Organization—Agriculture Supply Management.  
Hon. Leonard J. Gustafson. . . . . 2880  
Hon. Marjory LeBreton . . . . . 2880  
Hon. Terry M. Mercer . . . . . 2880

**The Late Vilma Espín Guillois**  
Hon. Anne C. Cools. . . . . 2881

**Business of the Senate**  
The Hon. the Speaker. . . . . 2881

## ORDERS OF THE DAY

**Quarantine Act (Bill C-42)**  
Bill to Amend—Third Reading . . . . . 2881

**Criminal Code (Bill C-59)**  
Bill to Amend—Third Reading . . . . . 2881

**Budget Implementation Bill, 2007 (Bill C-52)**  
Third Reading.  
Hon. Wilfred P. Moore. . . . . 2883  
Hon. Gerald J. Comeau . . . . . 2883  
Hon. Jim Munson . . . . . 2885  
Hon. Lowell Murray . . . . . 2885  
Hon. Terry M. Mercer . . . . . 2885

**Personal Watercraft Bill (Bill S-209)**  
Third Reading . . . . . 2885

**Kyoto Protocol Implementation Bill (Bill C-288)**  
Third Reading . . . . . 2885

**Answer to Order Paper Question Tabled**  
Health Canada—Exposure to Pesticides.  
Hon. Gerald J. Comeau . . . . . 2887

**Criminal Code (Bill S-207)**  
Bill to Amend—Report of Committee.  
Hon. A. Raynell Andreychuk . . . . . 2887

**Study on Issues Relating to Fiscal Balances Among Orders of Government Budget**  
Second Interim Report of National Finance Committee Adopted.  
Hon. Joseph A. Day. . . . . 2887

**Internal Economy, Budgets and Administration**  
Sixteenth Report of Committee—Debate Continued.  
Hon. Anne C. Cools. . . . . 2887

**The Senate**  
Motion Urging Governor General to Fill Vacancies in Senate—  
Debate Continued.  
Hon. Sharon Carstairs . . . . . 2889  
Motion Urging Government to Engage in Free Trade  
Negotiations with European Union—Order Stands.  
Hon. Consiglio Di Nino . . . . . 2889

**Kyoto Protocol Implementation Bill (Bill C-288)**  
Notice of Motion for Time Allocation Withdrawn.  
Hon. Sharon Carstairs . . . . . 2889

**National Finance**  
Committee Authorized to Extend Date of Final Report on Study  
of Issues Relating to Fiscal Balances Among Orders  
of Government.  
Hon. Joseph A. Day. . . . . 2889

**Adjournment**  
Hon. Gerald J. Comeau . . . . . 2890

**Royal Assent** . . . . . 2890

**Business of the Senate**  
Hon. Tommy Banks. . . . . 2891

**Progress of Legislation** . . . . . i







*If undelivered, return COVER ONLY to:*  
Public Works and Government Services Canada  
Publishing and Depository Services  
Ottawa, Ontario K1A 0S5













